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CENTER FOR OCEANS LAW AND POLICY

University of Virginia School of Law

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VIRGINIA SEA GRANT COLLEGE PROGRAM

The Virginia Sea Grant College Program is part of a nationwide network of 30 university-based Sea Grant programs funded through the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. In a partnership between universities, government, and industry, Sea Grant programs work together to address coastal issues through research, education and marine advisory services. The Virginia Sea Grant College Program is administered through the Virginia Graduate Marine Science Consortium with members at the University of Virginia, College of William and Mary, Old Dominion University, and Virginia Polytechnic Institute and State University.

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INTRODUCTION

The history of oceans law and policy, in large measure, may be examined by reviewing the development of associated laws and treaties. As the field has progressed and expanded, it has become increasingly difficult to keep pace with this evolution, even for those familiar with the subject. Anyone approaching the field for the first time faces even greater difficulty comprehending the broad spectrum of interrelated subjects and issues.

This problem has been compounded by the lack of a single consolidated source of relevant materials. Publication of these *International and United States Documents on Oceans Law and Policy* fills this gap by providing a collection of major documents relating to oceans law and policy. Divided into two main sections dealing with international and United States oceans issues, this multi-volume collection offers a systematic presentation of key documents, with each individual subsection organized chronologically to illustrate the development and interrelations of the topic within the broader context of international law. Although many more documents exist, this overview presents—within the constraints of space limitations—those that have enduring value to the field.

Full citations for each document are provided on the title page for that document. Often, two or more citations are provided for ease of reference. Most documents are presented in their entirety. For reasons of space, however, a few have been edited, and those documents are noted on their respective title pages. In these instances, those readers requiring the complete document may refer to the citation.

Representative of the broad range of ocean issues, this publication will serve academia, the oceans community, and policy-makers requiring specific documents for their research. We hope that this collection, because of its breadth, organization and choice of material, will be of lasting value as a reference source.

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A. GENERAL BACKGROUND AND MULTILATERAL CONFERENCES

1. Historic Antecedents

The Bull Inter Caetera (Alexander VI.),
May 4, 1493*

* F. Davenport, ed, European Treaties Bearing on the History of the United States and its Dependencies to 1648, at 75. The Carnegie Institution of Washington, 1917.

TRANSLATION.[m]

Alexander, bishop, servant of the servants of God, to the illustrious sovereigns, our very dear son in Christ, Ferdinand, king, and our very dear daughter in Christ, Isabella, queen of Castile, Leon, Aragon, Sicily, and Granada, health and apostolic benediction. Among other works well pleasing to the Divine Majesty and cherished of our heart, this assuredly ranks highest, that in our times especially the Catholic faith and the Christian religion be exalted and be everywhere increased and spread, that the health of souls be

[m] The Vatican text omits *Domino*.
[n] The reading of these names is due to Professor Vander Linden, whose article in the *American Historical Review*, XXII. 1-20, contains information concerning the signatories of this bull.
[o] See Doc. 5, note 19.

cared for and that barbarous nations be overthrown and brought to the faith itself. Wherefore inasmuch as by the favor of divine clemency, we, though of insufficient merits, have been called to this Holy See of Peter, recognizing that as true Catholic kings and princes, such as we have known you always to be, and as your illustrious deeds already known to almost the whole world declare, you not only eagerly desire but with every effort, zeal, and diligence, without regard to hardships, expenses, dangers, with the shedding even of your blood, are laboring to that end; recognizing also that you have long since dedicated to this purpose your whole soul and all your endeavors—as witnessed in these times with so much glory to the Divine Name in your recovery of the kingdom of Granada from the yoke of the Saracens—we therefore are rightly led, and hold it as our duty, to grant you even of our own accord and in your favor those things whereby with effort each day more hearty you may be enabled for the honor of God himself and the spread of the Christian rule to carry forward your holy and praiseworthy purpose so pleasing to immortal God. We have indeed learned that you, who for a long time had intended to seek out and discover certain islands and mainlands remote and unknown and not hitherto discovered by others, to the end that you might bring to the worship of our Redeemer and the profession of the Catholic faith their residents and inhabitants, having been up to the present time greatly engaged in the siege and recovery of the kingdom itself of Granada were unable to accomplish this holy and praiseworthy purpose; but the said kingdom having at length been regained, as was pleasing to the Lord, you, with the wish to fulfill your desire, chose our beloved son, Christopher Columbus, a man assuredly worthy and of the highest recommendations and fitted for so great an undertaking, whom you furnished with ships and men equipped for like designs, not without the greatest hardships, dangers, and expenses, to make diligent quest for these remote and unknown mainlands and islands through the sea, where hitherto no one had sailed; and they at length, with divine aid and with the utmost diligence sailing in the ocean sea, discovered certain very remote islands and even mainlands that hitherto had not been discovered by others; wherein dwell very many peoples living in peace, and, as reported, going unclothed, and not eating flesh. Moreover, as your aforesaid envoys are of opinion, these very peoples living in the said islands and countries believe in one God, the Creator in heaven, and seem sufficiently disposed to embrace the Catholic faith and be trained in good morals. And it is hoped that, were they instructed, the name of the Savior, our Lord Jesus Christ, would easily be introduced into the said countries and islands. Also, on one of the chief of these aforesaid islands the said Christopher has already caused to be put together and built a fortress fairly equipped, wherein he has stationed as garrison certain Christians, companions of his, who are to make search for other remote and unknown islands and mainlands. In the islands and countries already discovered are found gold, spices, and very many other precious things of divers kinds and qualities. Wherefore, as becomes Catholic kings and princes, after earnest consideration of all matters, especially of the rise and spread of the Catholic faith, as was the fashion of your ancestors, kings of renowned memory, you have purposed with the favor of divine clemency to bring under your sway the said mainlands and islands with their residents and inhabitants and to bring them to the Catholic faith. Hence, heartily commending in the Lord this your holy and praiseworthy purpose, and desirous that it be duly accomplished, and

that the name of our Savior be carried into those regions, we exhort you very earnestly in the Lord and by your reception of holy baptism, whereby you are bound to our apostolic commands, and by the bowels of the mercy of our Lord Jesus Christ, enjoin strictly, that inasmuch as with eager zeal for the true faith you design to equip and despatch this expedition, you purpose also, as is your duty, to lead the peoples dwelling in those islands and countries to embrace the Christian religion; nor at any time let dangers or hardships deter you therefrom, with the stout hope and trust in your hearts that Almighty God will further your undertakings. And, in order that you may enter upon so great an undertaking with greater readiness and heartiness endowed with the benefit of our apostolic favor, we, of our own accord, not at your instance nor the request of anyone else in your regard, but of our own sole largess and certain knowledge and out of the fullness of our apostolic power, by the authority of Almighty God conferred upon us in blessed Peter and of the vicarship of Jesus Christ, which we hold on earth, do by tenor of these presents, should any of said islands have been found by your envoys and captains, give, grant, and assign to you and your heirs and successors, kings of Castile and Leon, forever, together with all their dominions, cities, camps, places, and villages, and all rights, jurisdictions, and appurtenances, all islands and mainlands found and to be found, discovered and to be discovered towards the west and south, by drawing and establishing a line from the Arctic pole, namely the north, to the Antarctic pole, namely the south, no matter whether the said mainlands and islands are found and to be found in the direction of India or towards any other quarter, the said line to be distant one hundred leagues towards the west and south from any of the islands commonly known as the Azores and Cape Verde. With this proviso however that none of the islands and mainlands, found and to be found, discovered and to be discovered, beyond that said line towards the west and south, be in the actual possession of any Christian king or prince up to the birthday of our Lord Jesus Christ just past from which the present year one thousand four hundred and ninety-three begins. And we make, appoint, and depute you and your said heirs and successors lords of them with full and free power, authority, and jurisdiction of every kind; with this proviso however, that by this our gift, grant, and assignment no right acquired by any Christian prince, who may be in actual possession of said islands and mainlands prior to the said birthday of our Lord Jesus Christ, is hereby to be understood to be withdrawn or taken away. Moreover we command you in virtue of holy obedience that, employing all due diligence in the premises, as you also promise—nor do we doubt your compliance therein in accordance with your loyalty and royal greatness of spirit—you should appoint to the aforesaid mainlands and islands worthy, God-fearing, learned, skilled, and experienced men, in order to instruct the aforesaid inhabitants and residents in the Catholic faith and train them in good morals. Furthermore, under penalty of excommunication *late sententie* to be incurred *ipso facto*, should anyone thus contravene, we strictly forbid all persons of whatsoever rank, even imperial and royal, or of whatsoever estate, degree, order, or condition, to dare, without your special permit or that of your aforesaid heirs and successors, to go for the purpose of trade or any other reason to the islands or mainlands, found and to be found, discovered and to be discovered, towards the west and south, by drawing and establishing a line from the Arctic pole to the Antarctic pole, no matter whether the mainlands and islands, found

and to be found, lie in the direction of India or toward any other quarter whatsoever, the said line to be distant one hundred leagues towards the west and south, as is aforesaid, from any of the islands commonly known as the Azores and Cape Verde; apostolic constitutions and ordinances and other decrees whatsoever to the contrary notwithstanding. We trust in Him from whom empires and governments and all good things proceed, that, should you, with the Lord's guidance, pursue this holy and praiseworthy undertaking, in a short while your hardships and endeavors will attain the most felicitous result, to the happiness and glory of all Christendom. But inasmuch as it would be difficult to have these present letters sent to all places where desirable, we wish, and with similar accord and knowledge do decree, that to copies of them, signed by the hand of a public notary commissioned therefor, and sealed with the seal of any ecclesiastical officer or ecclesiastical court, the same respect is to be shown in court and outside as well as anywhere else as would be given to these presents should they thus be exhibited or shown. Let no one, therefore, infringe, or with rash boldness contravene, this our recommendation, exhortation, requisition, gift, grant, assignment, constitution, deputation, decree, mandate, prohibition, and will. Should anyone presume to attempt this, be it known to him that he will incur the wrath of Almighty God and of the blessed apostles Peter and Paul. Given at Rome, at St. Peter's, in the year of the incarnation of our Lord one thousand four hundred and ninety-three, the fourth of May, and the first year of our pontificate.

Gratis by order of our most holy lord, the pope.

June. For the referendary, A. DE MUCCIARELLIS.

For J. BUFOLINUS, A. SANTOSEVERINO.

L. PODOCATHARUS.

Treaty of Tordesillas (Spain-Portugal)
June 7, 1494*

* F. Davenport, ed, European Treaties Bearing on the History of the United States and its Dependencies to 1648, at 93. The Carnegie Institution of Washington, 1917.

Treaty between Spain and Portugal concluded at Tordesillas, June 7, 1494. Ratification by Spain, July 2, 1494. [Ratification by Portugal, September 5, 1494.]

TRANSLATION.

Don Ferdinand and Doña Isabella, by the grace of God king and queen of Castile, Leon, Aragon, Sicily, Granada, Toledo, Valencia, Galicia, Majorca, Seville, Sardinia, Cordova, Corsica, Murcia, Jaen, Algarve, Algeciras, Gibraltar, and the Canary Islands, count and countess of Barcelona, lord and lady of Biscay and Molina, duke and duchess of Athens and Neopatras, count and countess of Roussillon and Cerdagne, marquis and marchioness of Oristano and Gociano, together with the Prince Don John, our very dear and very beloved first-born son, heir of our aforesaid kingdoms and lordships. Whereas by Don Enrique Enriques, our chief steward, Don Gutierre de Cardenas, chief commissary of Leon, our chief auditor, and Doctor Rodrigo Maldonado, all members of our council, it was treated, adjusted, and agreed for us and in our name and by virtue of our power with the most serene Dom John, by the grace of God, king of Portugal and of the Algarves on this side and beyond the sea in Africa, lord of Guinea, our very dear and very beloved brother, and with Ruy de Sousa, lord of Sagres and Berenguel, Dom João de Sousa, his son, chief inspector of weights and measures of the said Most Serene King our brother, and Ayres de Almada, magistrate of the civil cases in his court and member of his *desembargo*, all members of the council of the aforesaid Most Serene King our brother, [and acting] in his name and by virtue of his power, his ambassadors, who came to us in regard to the controversy over what part belongs to us and what part to the said Most Serene King our brother, of that which up to this seventh day of the present month of June, the date of this instrument, is discovered in the ocean sea, in which said agreement our aforesaid representatives promised among other things that within a certain term specified in it we should sanction, confirm, swear to, ratify, and approve the above-mentioned agreement in person: we, wishing to fulfill and fulfilling all that which was thus adjusted, agreed upon, and authorized in our name in regard to the above-mentioned, ordered the said instrument of the aforesaid agreement and treaty to be brought before us that we might see and examine it, the tenor of which, word for word, is as follows:

In the name of God Almighty, Father, Son, and Holy Ghost, three truly separate and distinct persons and only one divine essence. Be it manifest and known to all who shall see this public instrument, that at the village of Tordesillas, on the seventh day of the month of June, in the year of the nativity of our Lord Jesus Christ 1494, in the presence of us, the secretaries, clerks, and notaries public subscribed below, there being present the honorable Don Enrique Enriques, chief steward of the very exalted and very mighty princes, the lord and lady Don Ferdinand and Doña Isabella, by the grace of God king and queen of Castile, Leon, Aragon, Sicily, Granada, etc., Don Gutierre de Cardenas, chief auditor of the said lords, the king and queen, and Doctor Rodrigo Maldonado, all members of the council of the said lords, the king and queen of Castile, Leon, Aragon, Sicily, Granada, etc., their qualified representatives of the one part, and the honorable Ruy de Sousa, lord of Sagres and Berenguel, Dom Juan de Sousa, his son, chief inspector of weights and measures of the very exalted and very excellent lord Dom John, by the grace of God king of Portugal and of the Algarves on this side and beyond the sea in Africa, lord of Guinea, and Ayres de Almada, magistrate of civil cases in his court and member of his *desembargo*, all of the council of the said lord King of Portugal, and his qualified ambassadors and representatives, as was proved by both the said parties by means of the letters of authorization and procurations from the said lords their constituents, the tenor of which, word for word, is as follows:

[Here follow the full powers granted by Ferdinand and Isabella to Don Enrique Enriques, Don Gutierre de Cardenas, and Dr. Rodrigo Maldonado on June 5, 1494; and the full powers granted by John II. to Ruy de Sousa, João de Sousa, and Ayres Almada on March 8, 1494.]

"Thereupon it was declared by the above-mentioned representatives of the aforesaid King and Queen of Castile, Leon, Aragon, Sicily, Granada, etc., and of the aforesaid King of Portugal and the Algarves, etc.:

[1.] That, whereas a certain controversy exists between the said lords, their constituents, as to what lands, of all those discovered in the ocean sea up to the present day, the date of this treaty, pertain to each one of the said parts respectively; therefore, for the sake of peace and concord, and for the preservation of the relationship and love of the said King of Portugal for the said King and Queen of Castile, Aragon, etc., it being the pleasure of their Highnesses, they, their said representatives, acting in their name and by virtue of their powers herein described, covenanted and agreed that a boundary or straight line be determined and drawn north and south, from pole to pole, on the said ocean sea, from the Arctic to the Antarctic pole. This boundary or line shall be drawn straight, as aforesaid, at a distance of three hundred and seventy leagues west of the Cape Verde Islands, being calculated by degrees, or by any other manner as may be considered the best and readiest, provided the distance shall be no greater than abovesaid. And all lands, both islands and mainlands, found and discovered already, or to be found and discovered hereafter, by the said King of Portugal and by his vessels on this side of the said line and bound determined as above, toward the east, in either north or south latitude, on the eastern side of the said bound, provided the said bound is not crossed, shall belong to, and remain in the possession of, and pertain forever to, the said King of Portugal and his successors. And all other lands, both islands and mainlands, found or to be found hereafter, discovered or to be discovered hereafter, which have been discovered or shall be discovered by the said King and Queen of Castile, Aragon, etc., and by their vessels, on the western side of the said bound, determined as above, after having passed the said bound toward the west, in either its north or south latitude, shall belong to, and remain in the possession of, and pertain forever to, the said King and Queen of Castile, Leon, etc., and to their successors.

[2.] Item, the said representatives promise and affirm by virtue of the powers aforesaid, that from this date no ships shall be despatched—namely as follows: the said King and Queen of Castile, Leon, Aragon, etc., for this part of the bound, and its eastern side, on this side the said bound, which pertains to the said King of Portugal and the Algarves, etc.; nor the said King of Portugal to the other part of the said bound which pertains to the said King and Queen of Castile, Aragon, etc.—for the purpose of discovering and seeking any mainlands or islands, or for the purpose of trade, barter, or conquest of any kind. But should it come to pass that the said ships of the said King and Queen of Castile, Leon, Aragon, etc., on sailing thus on this side of the said bound, should discover any mainlands or islands in the region pertaining, as abovesaid, to the said King of Portugal, such mainlands

[a] From this, the beginning of the treaty proper, as far as to "The said Don Enrique Enriques", on p. 98, the translation is taken from Blair and Robertson, *Philippine Islands*, I. 122-128.

or islands shall pertain to and belong forever to the said King of Portugal and his heirs, and their Highnesses shall order them to be surrendered to him immediately. And if the said ships of the said King of Portugal discover any islands and mainlands in the regions of the said King and Queen of Castile, Leon, Aragon, etc., all such lands shall belong to and remain forever in the possession of the said King and Queen of Castile, Leon, Aragon, etc., and their heirs, and the said King of Portugal shall cause such lands to be surrendered immediately.

[3.] Item, in order that the said line or bound of the said division may be made straight and as nearly as possible the said distance of three hundred and seventy leagues west of the Cape Verde Islands, as hereinbefore stated, the said representatives of both the said parties agree and assent that within the ten months immediately following the date of this treaty their said constituent lords shall despatch two or four caravels, namely, one or two by each one of them, a greater or less number, as they may mutually consider necessary. These vessels shall meet at the Grand Canary Island during this time, and each one of the said parties shall send certain persons in them, to wit, pilots, astrologers, sailors, and any others they may deem desirable. But there must be as many on one side as on the other, and certain of the said pilots, astrologers, sailors, and others of those sent by the said King and Queen of Castile, Aragon, etc., and who are experienced, shall embark in the ships of the said King of Portugal and the Algarves; in like manner certain of the said persons sent by the said King of Portugal shall embark in the ship or ships of the said King and Queen of Castile, Aragon, etc.; a like number in each case, so that they may jointly study and examine to better advantage the sea, courses, winds, and the degrees of the sun or of north latitude, and lay out the leagues aforesaid, in order that, in determining the line and boundary, all sent and empowered by both the said parties in the said vessels, shall jointly concur. These said vessels shall continue their course together to the said Cape Verde Islands, from whence they shall lay a direct course to the west, to the distance of the said three hundred and seventy degrees, measured as the said persons shall agree, and measured without prejudice to the said parties. When this point is reached, such point will constitute the place and mark for measuring degrees of the sun or of north latitude either by daily runs measured in leagues, or in any other manner that shall mutually be deemed better. This said line shall be drawn north and south as aforesaid, from the said Arctic pole to the said Antarctic pole. And when this line has been determined as abovesaid, those sent by each of the aforesaid parties, to whom each one of the said parties must delegate his own authority and power, to determine the said mark and bound, shall draw up a writing concerning it and affix thereto their signatures. And when determined by the mutual consent of all of them, this line shall be considered as a perpetual mark and bound, in such wise that the said parties, or either of them, or their future successors, shall be unable to deny it, or erase or remove it, at any time or in any manner whatsoever. And should, perchance, the said line and bound from pole to pole, as aforesaid, intersect any island or mainland, at the first point of such intersection of such island or mainland by the said line, some kind of mark or tower shall be erected, and a succession of similar marks shall be erected in a straight line from such mark or tower, in a line identical with the above-mentioned bound. These marks shall separate those portions of such land belonging to each one

of the said parties; and the subjects of the said parties shall not dare, on either side, to enter the territory of the other, by crossing the said mark or bound in such island or mainland.

[4.] Item, inasmuch as the said ships of the said King and Queen of Castile, Leon, Aragon, etc., sailing as before declared, from their kingdoms and seigniories to their said possessions on the other side of the said line, must cross the seas on this side of the line, pertaining to the said King of Portugal, it is therefore concerted and agreed that the said ships of the said King and Queen of Castile, Leon, Aragon, etc., shall, at any time and without any hindrance, sail in either direction, freely, securely, and peacefully, over the said seas of the said King of Portugal, and within the said line. And whenever their Highnesses and their successors wish to do so, and deem it expedient, their said ships may take their courses and routes direct from their kingdoms to any region within their line and bound to which they desire to despatch expeditions of discovery, conquest, and trade. They shall take their courses direct to the desired region and for any purpose desired therein, and shall not leave their course, unless compelled to do so by contrary weather. They shall do this provided that, before crossing the said line, they shall not seize or take possession of anything discovered in his said region by the said King of Portugal; and should their said ships find anything before crossing the said line, as aforesaid, it shall belong to the said King of Portugal, and their Highnesses shall order it surrendered immediately. And since it is possible that the ships and subjects of the said King and Queen of Castile, Leon, etc., or those acting in their name, may discover before the twentieth day of this present month of June, following the date of this treaty, some islands and mainlands within the said line, drawn straight from pole to pole, that is to say, inside the said three hundred and seventy leagues west of the Cape Verde Islands, as aforesaid, it is hereby agreed and determined, in order to remove all doubt, that all such islands and mainlands found and discovered in any manner whatsoever up to the said twentieth day of this said month of June, although found by ships and subjects of the said King and Queen of Castile, Aragon, etc., shall pertain to and remain forever in the possession of the said King of Portugal and the Algarves, and of his successors and kingdoms, provided that they lie within the first two hundred and fifty leagues of the said three hundred and seventy leagues reckoned west of the Cape Verde Islands to the above-mentioned line—in whatsoever part, even to the said poles, of the said two hundred and fifty leagues they may be found, determining a boundary or straight line from pole to pole, where the said two hundred and fifty leagues end. Likewise all the islands and mainlands found and discovered up to the said twentieth day of this present month of June by the ships and subjects of the said King and Queen of Castile, Aragon, etc., or in any other manner, within the other one hundred and twenty leagues that still remain of the said three hundred and seventy leagues where the said bound that is to be drawn from pole to pole, as aforesaid, must be determined, and in whatever part of the said one hundred and twenty leagues, even to the said poles,—they that are found up to the said day shall pertain to and remain forever in the possession of the said King and Queen of Castile, Aragon, etc., and of their successors and kingdoms; just as whatever is or shall be found on the other side of the said three hundred and seventy leagues pertaining to their Highnesses, as aforesaid, is and must be theirs, although the said one hundred and twenty leagues are within the

said bound of the said three hundred and seventy leagues pertaining to the said King of Portugal, the Algarves, etc., as aforesaid.

And if, up to the said twentieth day of this said month of June, no lands are discovered by the said ships of their Highnesses within the said one hundred and twenty leagues, and are discovered after the expiration of that time, then they shall pertain to the said King of Portugal as is set forth in the above.

The said Don Enrique Enriques, chief steward, Don Gutierre de Cardenas, chief auditor, and Doctor Rodrigo Maldonado, representatives of the said very exalted and very mighty princes, the lord and lady, the king and queen of Castile, Leon, Aragon, Sicily, Granada, etc., by virtue of their said power, which is incorporated above, and the said Ruy de Sousa, Dom João de Sousa, his son, and Arias de Almadana, representatives and ambassadors of the said very exalted and very excellent prince, the lord king of Portugal and of the Algarves on this side and beyond the sea in Africa, lord of Guinea, by virtue of their said power, which is incorporated above, promised, and affirmed, in the name of their said constituents, [saying] that they and their successors and kingdoms and lordships, forever and ever, would keep, observe, and fulfill, really and effectively, renouncing all fraud, evasion, deceit, falsehood, and pretense, everything set forth in this treaty, and each part and parcel of it; and they desired and authorized that everything set forth in this said agreement and every part and parcel of it be observed, fulfilled, and performed as everything which is set forth in the treaty of peace concluded and ratified between the said lord and lady, the king and queen of Castile, Aragon, etc., and the lord Dom Alfonso, king of Portugal (may he rest in glory) and the said king, the present ruler of Portugal, his son, then prince in the former year of 1479, must be observed, fulfilled, and performed, and under those same penalties, bonds, securities, and obligations, in accordance with and in the manner set forth in the said treaty of peace. Also they bound themselves [by the promise]that neither the said parties nor any of them nor their successors forever should violate or oppose that which is abovesaid and specified, nor any part or parcel of it, directly or indirectly, or in any other manner at any time, or in any manner whatsoever, premeditated or not premeditated, or that may or can be, under the penalties set forth in the said agreement of the said peace; and whether the fine be paid or not paid, or graciously remitted, that this obligation, agreement, and treaty shall continue in force and remain firm, stable, and valid forever and ever. That thus they [a] will keep, observe, perform, and pay everything, the said representatives, acting in the name of their said constituents, pledged the property, movable and real, patrimonial and fiscal, of each of their respective parties, and of their subjects and vassals, possessed and to be possessed. They renounced all laws and rights of which the said parties or either of them might take advantage to violate or oppose the foregoing or any part of it; and for the greater security and stability of the aforesaid, they swore before God and the Blessed Mary and upon the sign of the Cross, on which they placed their right hands, and upon the words of the Holy Gospels, wheresoever they are written at greatest length, and on the consciences of their said constituents, that they, jointly and severally, will keep, observe, and fulfill all the aforesaid and each part and parcel of it, really and effectively, renouncing all fraud, evasion,

[a] *I. e.*, the constituents.

deceit, falsehood, and pretense, and that they will not contradict it at any time or in any manner. And under the same oath they swore not to seek absolution or release from it from our most Holy Father or from any other legate or prelate who could give it to them. And even though, *proprio motu*, it should be given to them, they will not make use of it; rather, by this present agreement, they, acting in the said name, entreat our most Holy Father that his Holiness be pleased to confirm and approve this said agreement, according to what is set forth therein; and that he order his bulls in regard to it to be issued to the parties or to whichever of the parties may solicit them, with the tenor of this agreement incorporated therein, and that he lay his censures upon those who shall violate or oppose it at any time whatsoever. Likewise, the said representatives, acting in the said names, bound themselves under the same penalty and oath, that within the one hundred days next following, reckoned from the day of the date of this agreement, the parties would mutually exchange the approbation and ratification of this said agreement, written on parchment, signed with the names of the said lords, their constituents, and sealed with their hanging leaden seals; and that the instrument which the said lords, the king and queen of Castile, Aragon, etc., should have to issue, must be signed, agreed to, and sanctioned by the very noble and most illustrious lord, Prince Don Juan, their son. Of all the foregoing they authorized two copies, both of the same tenor exactly, which they signed with their names and executed before the undersigned secretaries and notaries public, one for each party. And whichever copy is produced, it shall be as valid as if both the copies which were made and executed in the said town of Tordesillas, on the said day, month, and year aforesaid, should be produced. The chief deputy, Don Enrique, Ruy de Sousa, Dom Juan de Sousa, Doctor Rodrigo Maldonado, Licentiate Ayres. Witnesses who were present and who saw the said representatives and ambassadors sign their names here and execute the aforesaid, and take the said oath: The deputy Pedro de Leon and the deputy Fernando de Torres, residents of the town of Valladolid, the deputy Fernando de Gamarra, deputy of Zagra and Cenete, *contino* of the house of the said king and queen, our lords, and João Suares de Sequeira, Ruy Leme, and Duarte Pacheco, *continos* of the house of the said King of Portugal, summoned for that purpose. And I, Fernando Alvarez de Toledo, secretary of the king and queen, our lords, member of their council, and their scrivener of the high court of justice, and notary public in their court and throughout their realms and lordships, witnessed all the aforesaid, together with the said witnesses and with Estevan Vaez, secretary of the said King of Portugal, who by the authority given him by the said king and queen, our lords, to certify to this act in their kingdoms, also witnessed the abovesaid; and at the request and with the authorization of all the said representatives and ambassadors, who in my presence and his here signed their names, I caused this public instrument of agreement to be written. It is written on these six leaves of paper, in entire sheets, written on both sides, together with this leaf, which contains the names of the aforesaid persons and my sign; and the bottom of every page is marked with the notarial mark of my name and that of the said Estevan Vaez. And in witness I here make my sign, which is thus. In testimony of truth: Fernando Alvarez. And I, the said Estevan Vaez (who by the authority given me by the said lords, the king and queen of Castile, and of Leon, to make it public throughout their kingdoms and lordships, together with the said Fernando Alvarez, at the

request and summons of the said ambassadors and representatives witnessed everything), in testimony and assurance thereof signed it here with my public sign, which is thus.

The said deed of treaty, agreement, and concord, above incorporated, having been examined and understood by us and by the said Prince Don John, our son, we approve, commend, confirm, execute, and ratify it, and we promise to keep, observe, and fulfill all the abovesaid that is set forth therein, and every part and parcel of it, really and effectively. We renounce all fraud, evasion, falsehood, and pretense, and we shall not violate or oppose it, or any part of it, at any time or in any manner whatsoever. For greater security, we and the said prince Don John, our son, swear before God and Holy Mary, and by the words of the Holy Gospels, wheresoever they are written at greatest length, and upon the sign of the Cross upon which we actually placed our right hands, in the presence of the said Ruy de Sousa, Dom João de Sousa, and Licentiate Ayres de Almada, ambassadors and representatives of the said Most Serene King of Portugal, our brother, thus to keep, observe, and fulfill it, and every part and parcel of it, so far as it is incumbent upon us, really and effectively, as is abovesaid, for ourselves and for our heirs and successors, and for our said kingdoms and lordships, and the subjects and natives of them, under the penalties and obligations, bonds and abjurements set forth in the said contract of agreement and concord above written. In attestation and corroboration whereof, we sign our name to this our letter and order it to be sealed with our leaden seal, hanging by threads of colored silk. Given in the town of Arévalo, on the second day of the month of July, in the year of the nativity of our Lord Jesus Christ, 1494.

I, THE KING. I, THE QUEEN. I, THE PRINCE.

I, FERNANDO ALVAREZ de Toledo, secretary of the king and of the queen, our lords, have caused it to be written by their mandate.

. . . doctor.

H. Grotius, Mare Liberum (The Freedom of the Sea)(excerpts),1633*

* Magoffin trans. from Latin, at 7-8, 15, 22 and 27-28 (New York, Oxford University Press, 1916).

Carnegie Endowment for International Peace
DIVISION OF INTERNATIONAL LAW

THE FREEDOM OF THE SEAS

OR

THE RIGHT WHICH BELONGS TO THE DUTCH TO TAKE PART IN THE EAST INDIAN TRADE

A DISSERTATION BY

HUGO GROTIUS

TRANSLATED WITH A REVISION OF THE LATIN TEXT OF 1633

BY

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EDITED WITH AN INTRODUCTORY NOTE

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CHAPTER I

By the Law of Nations navigation is free to all persons whatsoever

My intention is to demonstrate briefly and clearly that the Dutch—that is to say, the subjects of the United Netherlands—have the right to sail to the East Indies, as they are now doing, and to engage in trade with the people there. I shall base my argument on the following most specific and unimpeachable axiom of the Law of Nations, called a primary rule or first principle, the spirit of which is self-evident and immutable, to wit: Every nation is free to travel to every other nation, and to trade with it.

God Himself says this speaking through the voice of nature; and inasmuch as it is not His will to have Nature supply every place with all the necessaries of life, He ordains that some nations excel in one art and others in another. Why is this His will, except it be that He wished human friendships to be engendered by mutual needs and resources, lest individuals deeming themselves entirely sufficient unto themselves should for that very reason be rendered unsociable? So by the decree of divine justice it was brought about that one people should supply the needs of another, in order, as Pliny the Roman writer says,[1] that in this way, whatever has been produced anywhere should seem to have been destined for all. Vergil also sings in this wise:

> *"Not every plant on every soil will grow,"* [2]

and in another place:

> *"Let others better mould the running mass*
> *Of metals,"* etc.[3]

[1] Panegyric 29, 2.
[2] Georgics II, 109 [Dryden's translation, II, 154].
[3] Aeneid VI, 847-853 [Dryden's translation, VI, 1168-1169].

Those therefore who deny this law, destroy this most praiseworthy bond of human fellowship, remove the opportunities for doing mutual service, in a word do violence to Nature herself. For do not the ocean, navigable in every direction with which God has encompassed all the earth, and the regular and the occasional winds which blow now from one quarter and now from another, offer sufficient proof that Nature has given to all peoples a right of access to all other peoples? Seneca [1] thinks this is Nature's greatest service, that by the wind she united the widely scattered peoples, and yet did so distribute all her products over the earth that commercial intercourse was a necessity to mankind. Therefore this right belongs equally to all nations. Indeed the most famous jurists [2] extend its application so far as to deny that any state or any ruler can debar foreigners from having access to their subjects and trading with them. Hence is derived that law of hospitality which is of the highest sanctity; hence the complaint of the poet Vergil:

> *"What men, what monsters, what inhuman race,*
> *What laws, what barbarous customs of the place,*
> *Shut up a desert shore to drowning men,*
> *And drive us to the cruel seas again."* [3]

And:

> *"To beg what you without your want may spare—*
> *The common water, and the common air."* [4]

We know that certain wars have arisen over this very matter; such for example as the war of the Megarians against the

[1] Natural Questions III, IV.

[2] Institutes II, 1; Digest I, 8, 4; cf. Gentilis, De jure belli I, 19; cf. Code IV, 63, 4 [Grotius refers particularly to his famous predecessor Albericus Gentilis (1552-1608), an Italian who came to England and was appointed to the chair of Regius Professor of Civil Law at Oxford. He published his De Jure Belli in 1588].

[3] Aeneid I, 539-540 [Dryden's translation, I, 760-763].

[4] Aeneid VII, 229-230 [Dryden's translation, VII, 313-314].

CHAPTER III

The Portuguese have no right of sovereignty over the East Indies by virtue of title based on the Papal Donation

Next, if the partition made by the Pope Alexander VI * is to be used by the Portuguese as authority for jurisdiction in the East Indies, then before all things else two points must be taken into consideration.

First, did the Pope merely desire to settle the disputes between the Portuguese and the Spaniards?

This was clearly within his power, inasmuch as he had been chosen to arbitrate between them, and in fact the kings of both countries had previously concluded certain treaties with each other on this very matter.[1] Now if this be the case, seeing that the question concerns only the Portuguese and Spaniards, the decision of the Pope will of course not affect the other peoples of the world.

Second, did the Pope intend to give to two nations, each one third of the whole world?

But even if the Pope had intended and had had the power to make such a gift, still it would not have made the Portuguese sovereigns of those places. For it is not a donation that makes a sovereign, it is the consequent delivery of a thing[2] and the subsequent possession thereof.

Now, if any one will scrutinize either divine or human law, not merely with a view to his own interests, he will

[1] [Grotius cites Osorius, but gives no reference.]

[2] Institutes II, 1, 40.

* [The Cambridge Modern History, I, 23-24, has a good paragraph upon this famous Papal Bull of May 14, 1493 (modified June 7, 1494, by treaty of Tordesillas).]

CHAPTER V

Neither the Indian Ocean nor the right of navigation thereon belongs to the Portuguese by title of occupation

If therefore the Portuguese have acquired no legal right over the nations of the East Indies, and their territory and sovereignty, let us consider whether they have been able to obtain exclusive jurisdiction over the sea and its navigation or over trade. Let us first consider the case of the sea.

Now, in the legal phraseology of the Law of Nations, the sea is called indifferently the property of no one (*res nullius*), or a common possession (*res communis*), or public property (*res publica*). It will be most convenient to explain the signification of these terms if we follow the practice of all the poets since Hesiod, of the philosophers and jurists of the past, and distinguish certain epochs, the divisions of which are marked off perhaps not so much by intervals of time as by obvious logic and essential character. And we ought not to be criticised if in our explanation of a law deriving from nature, we use the authority and definition of those whose natural judgment admittedly is held in the highest esteem.

It is therefore necessary to explain that in the earliest stages of human existence both sovereignty and common possession had meanings other than those which they bear at the present time.[1] For nowadays sovereignty means a particular kind of proprietorship, such in fact that it absolutely excludes like possession by any one else. On the other hand, we call a thing 'common' when its ownership

[1] Paul de Castro on Digest I, 1, 5; Dist. I, C. VII.

'For each nation', Seneca says in another place, 'made its territories into separate kingdoms and built new cities'.[1] Thus Cicero says: "On this principle the lands of Arpinum are said to belong to the Arpinates, the Tusculan lands to the Tusculans; and similar is the assignment of private property. Therefore, inasmuch as in each case some of those things which by nature had been common property became the property of individuals, each one should retain possession of that which has fallen to his lot."[2] On the other hand Thucydides[3] calls the land which in the division falls to no nation, ἀόριστος, that is, undefined, and undetermined by boundaries.[4]

Two conclusions may be drawn from what has thus far been said. The first is, that that which cannot be occupied, or which never has been occupied, cannot be the property of any one, because all property has arisen from occupation. The second is, that all that which has been so constituted by nature that although serving some one person it still suffices for the common use of all other persons, is today and ought in perpetuity to remain in the same condition as when it was first created by nature. This is what Cicero meant when he wrote: "This then is the most comprehensive bond that unites together men as men and all to all; and under it the common right to all things that nature has produced for the common use of man is to be maintained."[5] All things which can be used without loss to any one else come under this category. Hence, says Cicero, comes the well known prohibition:[6] 'Deny no one the water that flows by'. For running water considered as such and not as a

[1] Octavia 431-432 [Grotius here takes a slight liberty with the context].
[2] De officiis I, 21 [Walter Miller's (Loeb) translation, page 23].
[3] History I, 139, 2.
[4] Duaren [a French humanist (1509-1559)], on Digest I, 8.
[5] De officiis I, 51 [Walter Miller's (Loeb) translation, page 55].
[6] De officiis I, 52.

stream, is classed by the jurists among the things common to all mankind; as is done also by Ovid:[1] 'Why do you deny me water? Its use is free to all. Nature has made neither sun nor air nor waves private property; they are public gifts'.

He says that these things are not by nature private possession, but that, as Ulpian claims,[2] they are by nature things open to the use of all, both because in the first place they were produced by nature, and have never yet come under the sovereignty of any one, as Neratius says;[3] and in the second place because, as Cicero says, they seem to have been created by nature for common use. But the poet uses 'public', in its usual meaning, not of those things which belong to any one people, but to human society as a whole; that is to say, things which are called 'public' are, according to the Laws of the law of nations, the common property of all, and the private property of none.

[1] Metamorphoses VI, 349-351.

[2] Digest VIII, 4, 13.

[3] Digest XLI, 1, 14; Comines, Memoirs III, 2; Donellus IV, 2; Digest XLI, 3, 49. [Philippe de Comines (1445-1509), a French historian, and one of the negotiators of the treaty of Senlis (1493).]

J. Selden, Mare Clausum: The Right and Dominion of the Sea, (excerpts), 1663*

* J.H. Gent trans. from Latin, preface and 168-179 (London, 1663).

As to what concern's the aforeſaid circumſtances of Sea-Dominion, whereas there are two Propoſitions here (ſo far as the term may bee born in things of a civil nature) made evident; The one, That the Sea, by the Law of Nature or Nations, is not common to all men, but capable of private Dominion or proprietie as well as the Land; *The other,* That the King of *Great Britain* is Lord of the Sea flowing about, as an inſeparable and perpetual Appendant of the Britiſh Empire; *it is not to bee conceived, that any other kinde either of Cauſes or Effects of Sea-Dominion are here admitted, than ſuch as have been of the Dominion of an Iſland, Continent, Port, or any other Territorie whatſoëver or Province, which is wont to bee reckoned in the Royal Patrimonie of Princes. Nor that a leſs Dominion of the Sea than of the Land, is derived from the nature of the Law received among Nations about the acquiring of Dominion and of Juſtice it ſelf, as from the Cauſes; nor that the Effects thereof are any other than what are variouſly ſubſervient to Compacts, Agreements, Leagues and Treaties, Conſtitutions or Preſcriptions of ſervitudes, and other things of that nature, in the ſame manner as the effects of Dominion*

by

by Land. And therefore [c] *hee ſaid well of old,*

[c] Seneca in *Medeâ*, Act. 2.

Nunc jam ceſsit Pontus, & Omnes
Patitur leges ;

The Sea's now made appropriate,
And yield's to all the Laws of ſtate.

That is to ſay, all which are admitted in any other kinde of Territories, according to the difference of things, perſons, times, and the Law of War and Peace. And ſo Valerius *to the Emperor* Tiberius, The conſent of men and gods, *ſaith* [d] *hee,* would have the regiment of Sea and Land bee in thy power. *There are other Paſſages of the ſame kinde in antient Authors, whereby the Dominion of Land and Sea is ſo conjoined, that they would by no means have it divided in reſpect of each other, or that either the effects or cauſes of the Dominion of this ſhould bee different from that of the other. But this, I ſuppoſe, is ſufficiently manifeſt to the more intelligent ſort of men, without any Advertiſement ; though it bee neceſſarie for ſuch as too raſhly, without any regard*

[d] Prologo.

had to the interpoſition of Leagues and Treaties, Agreement, or Law, dare boldly affirm ſom-times, that the cauſ of Sea-Dominion conſiſt's onely in the ſtrength of powerful Fleets, ſomtimes alſo of ſuch as belong to [d] *Pirates; but the effect in reſtraining all others ſimply and perpetually.*

[d] Videſis *Lud. Servin.* in placit. tom. 2. pag. 260.

But the Title of the Book need's a defence alſo among ſom, whoſe palate I hear it doth not pleaſ very well. They would not have, forſooth, the Mare Clauſum *here handled, as an aſſertion of the Dominion of the Sea, but to denote the time wherein the Seas were ſaid to bee ſhut or cloſed by the Antients, as not fit for Navigation. Every man know's, that from the third of the Ides of* [e] November *until the ſixt of the Ides of* March, *or betwixt ſom other* [g] *beginning and ending of ſuch a kinde of winter-ſeaſon, the Sea was, and was ſo called, heretofore* Clauſum **Shut**; *as the reſt of the time, or in the Summer-ſeaſon, it was called* Apertum **Open**, *that is to ſay, more apt and convenient for ſhipping. According to which ſenſ it was ſaid by* [h] Cicero, *while hee was in exſpectation of Letters from his brother* Quinctus; Adhuc Clauſum Mare ſcio fuiſſe, **I know the Sea hath been ſhut until now.** *So that in this ſenſ, the Sirnames both*

[e] Vegetius, de Re Militari, lib. 4. cap. 39.
[g] L. 3. C. tit. de naufragiis, & l. 3. tit eod. in Cod. Theodoſiano; Jul. Ferret. de R. Navali, lib. 11. § 2. & 3.
[h] Ad Quinctum Fratrem, lib. 2. Epiſt. 5.

both of Clusius *and* Patulcius, *might rightly enough have been given to* Neptune, *as well as* Janus. *But yet, though the Title had been taken from this Nation of the Seas beeing shut or closed, it would not truly have been so reproveable. For, seeing it is in the power of an Owner, so to use and enjoy his Own, that without som Compacts of Agreement, Covenants or som special Right supervening, hee may lawfully restrain any others whatsoever, it cannot bee amiss for any one to say, that the Seas, which might pass into the Dominion of any person, are by the Law of Dominion shut to all others who are not Owners or that do not enjoy such a peculiar Right; in the same manner almost as that, whereby in that Winter-season they becom unnavigable by the Law of Nature, as saith* Vegetius. *But truly there is another and far clearer meaning of the Title. The simple sens of its terms doth denote, that the Sea is so shut up or separated and secluded for private Dominion, no otherwise than the Land or a Port, by bounds, limits, and other Notes and circumstances of private Dominion, and that by all kinde of Law, that without the consent of the Owner and those special restrictions & qualifications of Law, which variously intervene, vanish, and return,*

all others are excluded from a uſe of the ſame.

An Anſwer to the Opinions *of* modern Lawyers, *ſo far as they oppoſe a* Dominion *of the Sea; eſpecially of* Fernandus Vaſquius, *and* Hugo Grotius.

Chap. XXVI.

HAving thus refuted, or upon good ground removed ſom Opinions of antient Lawyers, which are uſually alleged for the mainteining of a perpetual Communitie of the Sea; it is no hard

hard matter in like manner to wave the Autoritie of thoſe of later time, that oppoſe a Dominion. For, if wee conſider the great number of thoſe, who, whether they comment upon the bodie of *Juſtinian*, or treat apart of this particular, would not have us to recede from that natural Communitie; wee ſhall finde plainly that they deal in the ſame manner, as they that have pinn'd their Faith, more then was meet, upon the ſleev of *Ulpian*, or ſom other ſuch antient Autor: Unleſs wee conceiv that ſom of them did not ſo much explain the Law in this point, as recite the opinions of Lawyers, ſo far as they have been by them deliver'd: Juſt in the ſame manner, as if a man ſhould ſo diſcourſ upon *Ariſtotle's* Aſtronomie, or the opinion of *Thales* touching the Earth's floating, like a Diſh in the Sea, and that of the Stoicks of its encompaſſing the Earth like a Girdle, with that of the Antients concerning an extreme heat under the Equinoctial, and other opinions of that kinde, which are rejected and condemned, by the obſervation and experience of Poſteritie; that hee might ſeem not ſo much to ſearch into the thing it ſelf, as to repreſent the perſon of the Autor, thereby to trace out his meaning, onely for the diſcovering of his opinion. But as the root beeing cut, the Tree fall's; ſo the Autoritie of thoſe antient Lawyers beeing removed out of the way, all the determinations of the modern which are ſupported by it, muſt bee extremely weakned.

Now therefore, as to what hath been formerly alleged out of *Fernandus Vaſquius*, it is grounded upon ſuch Arguments as are either manifeſtly falſ, or impertinent. For, what is this to the purpoſe?

That the Sea, from the beginning of the world to this preſent day, is, and ever hath been in common, without the leaſt alteration, as 'tis generally known. Whereas the quite contrarie is moſt certainly known to thoſe, who have had any inſight into the received Laws and Cuſtoms of Ages and Nations. That is to ſay, that by moſt approved Law and Cuſtom, ſom Seas have paſſed into the Dominion and partrimonie, both of Princes and private perſons; as is clearly made manifeſt out of what hath been alreadie ſhewn you. Moreover alſo hee [a] would have preſcription to ceaſ betwixt Foreigners in relation to each other, and not to take place in the Law of Nations, but in the *Civil* onely; ſo that by his Opinion preſciption ſhould bee of no force between thoſe (as between two ſupreme ſtates or Princes) who are not indifferently ſubject to the Civil Law, which admit's preſcription; then which not any thing can bee ſaid or imagined more abſurd. Almoſt all the principal points of the *Intervenient Law of Nations*, beeing eſtabliſhed by long conſent of perſons uſing them, do depend upon preſcription or antient Cuſtom. To ſay nothing of thoſe Princes, whoſe Territories were ſubject heretofore to the *Roman* Empire, and who afterwards became abſolute within themſelvs, not onely by Arms, but alſo by preſcription (which is every where admitted among the Laws of Nations;) whence is it that Priſoners of war are not now made ſlaves among Chriſtians, unleſs it bee becauſ that Cuſtom began to grow out of date ſom Ages ſince upon a ground of [b] Chriſtian brotherhood, and by preſcription ratified betwixt Nations. Whence is it that the ranſoms of priſoners are to bee paid, ſom to the Princes, and ſom to the Perſons that

[a] *Illuſtrium Controverſ. lib. 1. cap. 51. §. 23. unde & V. Cl. Hugo Grotius in Mari Libero, cap. 7.*

[b] *Suarez de Legibus, lib. 20.*

that take them? As for inſtance, when the ranſom is not above ten thouſand Crowns, it goe's to him that took the Priſoner; when it exceed's, it is to bee paid to the Prince. *Becauſ* (ſaith [c] *Nicolaus Boërius*) *if it exceed, as when any one hath taken a Duke, a Count, a Baron, or any other great man, then it belong's to the Prince, and ſo it is obſerved in the Kingdoms of* France, England *and* Spain. *It hath by preſcription of time been obſerved among Princes; and ſo it became Law.* And truly, to deny a Title of preſcription wholly among Princes, is plainly to abrogate the very intervenient Laws of Nations. As for thoſe other things mentioned by *Vaſquius*, concerning Charitie and the inexhauſtible abundance of the Sea (whereby hee make's a difference betwixt Rivers and Seas) and other things of the like nature, they have no relation at all to the point of Dominion; as you have been ſufficiently told alreadie.

[c] *In Deciſtſionibus Burdegal. deciſione* 178. *num.* 4.

In the next place, wee com to the other, to wit, *Hugo Grotius*, a man of great learning, and extraordinarie knowledg in things both Divine and Humane; whoſe name is very frequent in the mouths of men every where, to maintein a natural and perpetual Communitie of the Sea. Hee hath handled that point in two Books; in his *Mare Liberum*, and in that excellent work *De Jure Belli & pacis*. As to what concern's *Mare Liberum*, a Book that was written againſt the *Portugals* about trading into the Indies through the vaſt Atlantick and Southern Ocean; it contein's indeed ſuch things as have been delivered by antient Lawyers touching communitie of the Sea; Yea, and diſputing for the Profits and Intereſts of his Countrie, hee draw's them into his own partie; and ſo endeavor's to prove that the Sea

is not capable of private Dominion. But hee hath ſo warily couched this ſubject with other things, that whether in this hee did hit or miſs, the reſt howſoever might ſerv to aſſert the point which hee was to handle. Moreover, hee diſcourſeth about the Title of Diſcoverie, and primarie occupation (pretended to by the *Portugals*) and that alſo which is by Donation from the *Pope*. And hee ſeem's in a manner, either ſomtimes to quit that natural and perpetual Communitie, which many Civil Lawyers are eager to maintein, and hee himſelf, in order to his deſign, endeavored to confirm; or elſ to confeſs that it can hardly bee defended. For, concerning thoſe Seas that were incloſed by the antient Romans; *the nature of the Sea*, ſaith [d] hee, *differ's from the Shore in this, that the Sea, unleſs it bee in ſom ſmall part of it ſelf, is not eaſily capable of Building or Incloſure. And put caſe it were, yet even this could hardly bee without the hindrance of common uſe. Nevertheleſs, if any ſmall part of it may bee thus poſſeſſed, it fall's to him that enter's upon it firſt by occupation.* Now, the difference of a leſſer and a greater part, cannot take place (I ſuppoſe) in the determining of private Dominion. But in expreſs words hee except's even a Bay or Creek of the Sea. And a little after, ſaith hee, *Wee do not ſpeak here of an In-land Sea, which in ſom places being ſtreightned with Land on every ſide, exceed's not the breadth even of a River, yet 'tis clear that this was it the* Roman *Lawyers ſpake of, when they ſet forth thoſe notable determinations againſt private Avarice. But the Queſtion, is concerning the Ocean, which Antiquitie called* immenſe Infinit, *the Parent or Original of things, confining with the Aër.* And afterwards hee ſaith, *The Controverſie is not about a ſtreight, or Creek in this Ocean, nor of ſo much*

[d] *Mari libero, cap. 5.*

much as is within view when one ſtand's upon the ſhore. A little farther alſo, ſpeaking of *Preſcription*, hee ſaith, [d] *It is to bee added, that their Autoritie who are of the contrarie opinion, cannot bee applied to this Queſtion. For, they ſpeak of the Mediterranean Sea, wee of the Ocean. They of a Creek or Bay, wee of the broad and wide Sea, which differ very much in the point of Occupation.* And certainly, there is no man but muſt conceiv it a very difficult thing to poſſeſs the whole Ocean: Though if it could bee held by occupation, like a narrow Sea, or a Creek, or as the whole world was ſaid to bee poſſeſſed at firſt by antient Princes, it might even as well paſs into the Dominion or Ownerſhip of him that ſhould enter upon it firſt by occupation. Howſoever, there have been [e] ſom others, who by the ſame Rule diſtinguiſh in like manner the inner and neighboring Seas from the open Sea or main Ocean.

[d] Cap. 7.

[e] *Jo. Gryphiander, de Inſulis, c. 25. §. 52.*

51. But it is by no means to bee omitted, that they, for whoſe ſakes *Hugo Grotius* wrote that Book, that is to ſay, the States of *Holland*, did, not unwillingly, but rather (as it ſeem's) according to their own hearts deſire, give ear to the condemnation of that Opinion (eſpecially becauſ it was owned by *Grotius*) concerning a Communitie of the Sea and freedom of Fiſhing therein according to the Law natural and of Nations, by the Embaſſador of *James* King of great *Britain*, in a ſpeech of his deliver'd openly in *Holland*; and that others were gravely admoniſhed from his misfortune, not to maintein the like. Of vvhich thing *Grotius* himſelf bear's vvitneſs. [f] *I have labored*, ſaith hee, *as much as any to maintein the Right of Navigation to the Indies, and for the preſervation of Clothdreſſing in our Countrie. But for the freedom of Fiſhing at Sea ſo much, that* Carleton *the King of great* Britain's

[f] *In Apologetico eorum qui Hollandiæ præfuerunt ante mutationem 1618. p. 387. edit. Heidelberg. cap. 19. pag. 257.*

Britain's *Embaſſador*, *beeing incited by my enemies to ſpeak ſomwhat in publick againſt mee beeing at* [h] *that time in Priſon*, *hee had nothing elſ to ſay*, *but that I had begun to make ſom Diſcourſes in defence of that freedom*, *as a thing grounded upon the Law of Nations*, *and Cuſtom*, *time out of minde*; *Whereas notwithſtanding*, *nothing had been ſaid or written by mee upon that ſubject*, *different from thoſe things Which the State's Embaſſadors had mainteined in* Britain *in the year* MDCX; *and our Anceſtors before*, *even for ſom Ages paſt. And yet that Embaſſador ſaid*, *that others ought to bee terrified by the example of my misfortune*, *from defending that Opinion.* It is true indeed, that perſons in power uſually take a libertie to aſperſ men as they pleaſ when they are in queſtion: But theſe things were not ſpoken ſo much againſt *Hugo Grotius*, as againſt that natural Right of Communitie at Sea (injuriouſly pretended to) which many men have defended more expreſsly and plainly then himſelf; but none, with ſo much learning and ingenuitie. Nor, did that Speech of the Embaſſador, for ought wee know, as things then ſtood, diſpleaſ the States of *Holland*.

[h] Hee was impriſoned for having an hand in *Barnevel's* buſineſs.

But in his Books [i] *de Jure Belli & Pacis*, having indeed ſet down the reaſon of the original of private Dominion to bee upon this ground, that thoſe places which became peculiarly aſsigned were not ſufficient for the maintenance of all men, hee conclude's that the Sea, becauſ of its bigneſs and inexhauſtible abundance, beeing ſufficient for all, cannot bee appropriated to any. Hee add's other things alſo, touching the nature of the Seas not beeing diſtinguiſhable by Bounds; of both which wee have ſaid enough alreadie. But at length hee betake's himſelf to the received Cuſtoms of Nations and ſpeak's more then

[i] *De Jure Belli & Pacis*, *lib.* 2. *cap.* 2. §. 2. & 3.

once,

once concerning the proprietie or private Dominion of the Sea, as of a thing ſomtimes to bee yielded without Controverſie. *The Land*, ſaith [k] hee, *and Rivers, and any part of the Sea, in caſe it com under the proprietie of ſom Nation, ought to bee open for ſuch as have need of paſſage upon juſt and neceſſarie occaſions.* Afterwards alſo, ſpeaking of the [l] proprietie of Rivers, *After this example*, ſaith hee, *it ſeem's that even the Sea may bee poſſeſſed by him that is Owner of the Land on both ſides, although it lie open either above, as a Creek; or above and below too, as a ſtreight or narrow Sea: So that it bee not ſo great a part of the Sea, that beeing compared with the Lands it cannot ſeem to bee any portion of them. And that which is lawful for one Prince or People, the ſame ſeem's lawful alſo for two or three, if in the like manner they pleaſ to enter upon the Sea flowing between. For ſo, Rivers that flow between two Nations, have been entred upon by both, and then divided.* Hee allegeth other things alſo touching the Right of primarie occupation by Sea; but ſo, that for the moſt part hee contein's himſelf within Creeks and ſtreights. [m] Hee ſaith, that not by any natural Right or Reaſon, but by Cuſtom it came to paſs, that the Sea was not appropriated, or that it could not lawfully bee entred upon by Right of Occupation. And that the Cuſtom beeing changed, if there were any in the antient Law that might hinder a private Dominion of the Sea, the reaſon of Communitie muſt bee changed alſo. But that it hath been ſufficiently changed, appear's abundantly (if I bee not deceived) out of what wee have hitherto ſhewn you. Yea, the very Laws as well * Civil as Intervenient of moſt Nations make abundantly to this purpoſe, as it hath been proved.

[k] *Ibidem.* §. 13.

[l] *Ibid Cap.* 3. § 8.

[m] *Ibidem.* § 19.

* The ſame with Municipal.

Moreover,

Moreover, that nothing may bee wanting to weigh down the Ballance, therefore, beſides the opinions of the Civil Lawyers before alleged out of *France*, *Spain*, and *Italie*, for a private Dominion of the Sea, let this over and above bee added, which is taken out of that ſort of Lawyers alſo, diſcourſing in general terms about the Sea. I here give it you as it was compoſed by a Lawyer, none of the meaneſt in the *Roman-German* Empire, by name [a] *Regenerus Sixtinus*, who was indeed againſt private Dominion of the Sea. *The matter in queſtion*, ſaith hee, *concerning the Sea and its Shore, is, whether as Rivers that are navigable, and by which others are made navigable, they may bee reckoned* inter Regalia **among the Prince's Roialties:** (for, whatſoever is reputed a part of thoſe *Regalia* or Roialties, is as private or peculiar to Princes, as that is to ſubjects which is their own; for which cauſ the Revenues of the Exchequer are private after the ſame manner;) *ſo alſo, whether the Sea it ſelf and its Shore, bee compriſed within thoſe* Regalia? *Cacheranus, Deciſ.* 155. *n.* 81. *Ferrarius Montanus, de Feud. lib.* 5. *c.* 7. [b] *reckon's the regulation and the very dominion alſo of the Sea among the* Regalia, *nor doth hee make any difference betwixt the Sea and a publick River.* Mynſingerus *alſo, Reſp.* 1. *nu.* 162. *Decad.* 11. *ſaith, that the proprietie of the Sea is a part of thoſe* Regalia. But *Sixtinus* himſelf, diſcourſing upon this matter, juſt as they do that are more addicted than they ought to the words of *Ulpian*, and numbring up thoſe Autors that are of the contrarie opinion, conclude's thus, *But more true it is that a proprietie of the Sea and Shore, is not by the Common Law to bee reckoned among the Regalia.* But upon due conſideration of all thoſe particulars, which hither-

[a] *De Regalibus, lib. cap.* 4. §. 97.

[b] *Verſic. Tametſi Jus piſcandi.*

to

to have been produced out of the Cuſtoms of ſo many Ages and Nations, and as well out of the *Civil*, as the *Common* or *Intervenient Law* of moſt Nations, no man (I ſuppoſe) will queſtion but that there remain's not either in the nature of the Sea it ſelf, or in the Law either *Divine*, *Natural*, or of *Nations*, any thing which may ſo oppoſe the private Dominion thereof, that it cannot bee admitted by every kinde of Law, even the moſt approved; and ſo that any kinde of Sea whatſoëver may by any ſort of Law whatſoëver bee capable of private Dominion; which was the thing I intended to prove.

The End of the firſt Book.

2. The 1930 Hague Conference for the Codification of International Law

Acts of the Conference for the Codification of International Law, August 19, 1930*

* Report of the Second Committee (Territorial Sea), League of Nations Doc. C 351 (b) M.145(b) 1930 V (1930); 24 AM. J. INT'L. L. 234-53 (Supp. 1930).

REPORT OF THE SECOND COMMITTEE[1]

(Territorial Sea)

Rapporteur: M. FRANÇOIS (Netherlands)

The Second Committee was appointed to study the Bases of Discussion drawn up by the Preparatory Committee with regard to territorial waters (see Document C.74.M.39. 1929.V.). After a general discussion, this Committee formed two Sub-Committees, the first to examine Bases of Discussion Nos. 1, 2, 5 and 19 to 26 inclusive, the second to examine Bases Nos. 6 to 18 inclusive. Bases Nos. 3, 4, 27 and 28 were reserved for consideration by the full Committee. The results of the work of the Sub-Committees were embodied in two reports and submitted to the Committee.

The Committee appointed as its Chairman M. Göppert, Delegate of Germany, as Vice-Chairman His Excellency M. Goicoechea, Delegate of Spain, and as its Rapporteur Professor François, Delegate of the Netherlands.

The Chairman of the First Sub-Committee was His Excellency M. Barbosa de Magalhæs, Delegate of Portugal, the Second Sub-Committee being presided over by the Chairman of the plenary Committee, M. Göppert. The Second Sub-Committee appointed a special Committee of Experts, which defined for it certain technical terms. This Committee was presided over by Vice-Admiral Surie (Netherlands). Other special committees were set up to study particular questions.

The discussions of the Committee showed that all States admit the principle of the freedom of maritime navigation. On this point there are no differences of opinion. The freedom of navigation is of capital importance to all States; in their own interests they ought to favour the application of the principle by all possible means.

On the other hand, it was recognised that international law attributes to each Coastal State sovereignty over a belt of sea round its coasts. This must be regarded as essential for the protection of the legitimate interests of the State. The belt of territorial sea forms part of the territory of the State; the sovereignty which the State exercises over this belt does not differ in kind from the authority exercised over its land domain.

This sovereignty is however limited by conditions established by international law; indeed it is precisely because the freedom of navigation is of such great importance to all States that the right of innocent passage through the territorial sea has been generally recognised.

There may be said to have been agreement among the delegations on these ideas. With regard, however, to the breadth of the belt over which the sovereignty of the State should be recognised, it soon became evident that opinion was much divided. These differences of opinion were to a

[1] Publications of the League of Nations. V. Legal Questions. 1930. V. 9.

great extent the result of the varying geographical and economic conditions in different States and parts of the world. Certain delegations were also anxious about the consequences which, in their opinion, any rules adopted for time of peace might indirectly have on questions of neutrality in time of war.

The Committee refrained from taking a decision on the question whether existing international law recognises any fixed breadth of the belt of territorial sea. Faced with differences of opinion on this subject, the Committee preferred, in conformity with the instructions it received from the Conference, not to express an opinion on what ought to be regarded as the existing law, but to concentrate its efforts on reaching an agreement which would fix the breadth of the territorial sea for the future. It regrets to confess that its efforts in this direction met with no success.

The Preparatory Committee had suggested, as a basis of discussion, the following scheme:

1° Limitation of the breadth of the territorial sea to three miles;
2° Recognition of the claim of certain States specifically mentioned to a territorial sea of greater breadth;
3° Acceptance of the principle of a zone on the high sea contiguous to the territorial sea in which the Coastal State would be able to exercise the control necessary to prevent, within its territory or territorial sea, the infringement of its Customs or sanitary regulations or interference with its security by foreign vessels, such control not to be exercised more than twelve miles from the coast.

The Committee was unable to accept this scheme. Objections were raised by various delegations to each of the three points in turn.

The fixing of the breadth at three miles was opposed by those States which maintain that there is no rule of law to that effect, and that their national interests necessitate the adoption of a wider belt. The proposal to recognise a wider belt for these States and for them alone, led to objections from two sides: some States were not prepared to recognise exceptions to the three-mile rule, while the above-mentioned States themselves were of opinion that the adoption of such a rule would be arbitrary and were not prepared to accept any special position which was conceded to them merely as part of the terms of an agreement. The idea embodied in the third point, namely, the acceptance of a contiguous zone, found a number of supporters though it proved ineffective as the basis for a compromise.

The first question to be considered was the nature of the rights which would belong to the Coastal States in such a zone. The supporters of the proposal contemplated that, first of all, the Coastal State should be able to enforce its customs regulations over a belt of sea extending twelve miles out from the coast. It need scarcely be said that States would still be free to make treaties with one another conferring special or general rights in a wider

zone—for instance, to prevent pollution of the sea. Other States, however, were of opinion that in Customs matters bilateral or regional agreements would be preferable to the making of collective conventions, in view of the special circumstances which would apply in each case. These States were opposed to granting the Coastal State any right of exercising Customs or other control on the high seas outside the territorial sea, unless the right in question arose under a special convention concluded for the purpose. The opposition of these States to the establishment of such a zone was further strengthened by the possibility that, if such rights were accorded, they would eventually lead to the creation of a belt of territorial sea which included the whole contiguous zone.

Other States declared that they were ready to accept, if necessary, a contiguous zone for the exercise of Customs rights, but they refused to recognise the possession by the Coastal State of any rights of *control* with a view to preventing interference with its *security*. The recognition of a special right in the matter of legitimate defence against attack would, in the opinion of these States, be superfluous, since that right already existed under the general principles of international law; if, however, it was proposed to give the Coastal State still wider powers in this matter, the freedom of navigation would thereby be seriously endangered, without, on the other hand, affording any effective guarantee to the Coastal State. But other States regarded the granting of powers of this nature in the contiguous zone as being a matter of primary importance. The opinion was expressed that the Coastal State should be able to exercise in the air above the contiguous zone rights corresponding to those it might be in a position to claim over the contiguous zone itself. The denial of such rights over the contiguous zones both of sea and air would therefore, they stated, influence the attitude of the States in question with regard to the breadth of the territorial sea.

Certain delegations pointed out how important it was that the Coastal State should have in the contiguous zone effective administration of its fishery laws and the right of protecting fry. It was, on the other hand, agreed that it was probably unnecessary to recognise special rights in the contiguous zone in the matter of sanitary regulations.

The various points of view referred to on pages 3 and 4 of this report, in so far as they were expressed in the plenary meetings of the Committee, will be found in the Minutes, and in particular in those of the thirteenth meeting on April 3rd, 1930, which are annexed to this report.[1]

After discussions, which could not be prolonged because of the limited time available, the Committee came to the conclusion that in view of these wide divergencies of opinion no agreement could be reached for the present on these fundamental questions.

This conclusion necessarily affected the result of the examination of the other points.

The First Sub-Committee had drawn up and adopted thirteen Articles on

[1] See p. 253, *infra*.

the subjects which had been referred to it for examination. The Committee had to decide what should be done with the result of the sub-committee's labours. Some Delegations thought that, despite the impossibility of reaching an agreement on the breadth of the territorial sea, it was both possible and desirable to conclude a Convention on the legal status of that sea, and for that reason proposed that these Articles should be embodied in a convention to be adopted by the Conference. Most of the Delegations however took a contrary view. The Articles in question were intended to form part of a convention which would determine the breadth of the territorial sea. In several cases the acceptance of these Articles had been in the nature of a compromise and subject to the condition, expressed or implied, that an agreement would be reached on the breadth of the belt. In the absence of such an agreement there could be no question of concluding a convention containing these Articles alone. On the basis of a recent precedent, a third compromise was suggested, namely, that the Articles should be embodied in a convention which might be signed and ratified, but which would not come into force until a subsequent agreement was concluded on the breadth of the territorial sea. It was eventually agreed that no convention should be concluded immediately, and it was decided that the Articles proposed by the First Sub-Committee and provisionally approved by the Committee should be attached as an annex to the Committee's report (Annex I, p. 6).[1]

The absence of agreement as to the breadth of the territorial sea affected to an even greater extent the action to be taken on the Second Sub-Committee's report. The questions which that Sub-Committee had to examine are so closely connected with the breadth of the territorial sea that the absence of an agreement on that matter prevented the Committee from taking even a provisional decision on the Articles drawn up by the Sub-Committee. These Articles nevertheless constitute valuable material for the continuation of the study of the question, and are therefore also attached to the present report (Annex II, p. 11).[2]

One difficulty which the Committee encountered in the course of its examination of several points of its agenda was that the establishment of general rules with regard to the belt of the territorial sea would, in theory at any rate, effect an inevitable change in the existing status of certain areas of water. In this connection it is almost unnecessary to mention the bays known as "historic bays"; and the problem is besides by no means confined to bays, but arises in the case of other areas of water also. The work of codification could not affect any rights which States may possess over certain parts of their coastal sea, and nothing, therefore, either in this report or in its annexes, can be open to that interpretation. On the other hand, it must be recognised that no definite or concrete results can be obtained without determining and defining those rights. The Committee realises that in this matter too the work of codification will encounter certain difficulties.

[1] See p. 239, *infra*. [2] See p. 247, *infra*.

Nevertheless, in the Committee's opinion, it should not be concluded that difficulties in arriving at an immediate convention must necessarily lead States to abandon the work begun. Accordingly, the Committee proposes that the Conference should request the Council of the League of Nations to invite the Governments to continue, in the light of the Conference's discussions, the study of the breadth of the territorial sea and its allied questions and to seek ways and means of promoting the work of codification, and the good understanding of States in all that concerns the development of international maritime traffic.[1] In this connection it is suggested that the Council of the League should consider whether the various States should be invited to forward to the Secretary-General official information, either in the form of charts or in some other form, regarding the base lines adopted by them for the measurement of their belts of territorial sea.

Lastly, the Committee proposes that the Conference should recommend the Council of the League to convene, as soon as it deems opportune, a new Conference, either for the conclusion of a general convention on all questions connected with the territorial sea, or even—if such a course seems desirable—of a convention limited to the points dealt with in Annex I.[2]

The Preparatory Committee, when drawing up its questionnaire, observed that the question of jurisdiction over foreign vessels in ports did not quite lie within the scope of the questions with which the Conference was to be called upon to deal. After examining the replies of the Governments, the Preparatory Committee found that opinions were divided as to the desirability of embodying this point in the future convention.

The Committee decided not to deal with this subject. It was pointed out that it was a very complex one which lay outside the scheme of the proposed convention and could not be treated in full in the two Bases of Discussion drawn up by the Preparatory Committee. Further, the opinion was expressed that, although the rules on the subject could not be said to have no connection with the Convention, there was no urgent need to settle the problems involved at once; indeed, they already form the subject of a large number of bilateral Conventions. Other Delegations would have preferred to have seen the two Bases discussed, since, in their opinion, they solved certain aspects of the problem; but in view of the short time available, these Delegations did not object to the deletion of the Bases.

It was decided to submit the following recommendation to the Conference:

> "The Conference recommends that the Convention on the international régime of maritime ports, signed at Geneva on December 9th, 1923, should be supplemented by the adoption of provisions regulating the scope of the judicial powers of States with regard to vessels in their inland waters."

[1] See Annex IV, p. 257, *infra*. [2] See p. 239, *infra*.

Although the questions of protection of the various products of the sea and the regulation of fisheries do not, strictly speaking, come within the scheme of the Conference's work, nevertheless, a general agreement in this field would lessen the need which some States feel for a contiguous zone of sea for fishery purposes. The Committee proposes that the Conference should adopt the following recommendation:

> The Conference,
>
> Taking into consideration the importance of the fishing industry to certain countries;
>
> Recognising further that the protection of the various products of the sea must be considered not only in relation to the territorial sea but also the waters beyond it;
>
> And that it is not competent to deal with these problems nor to do anything to prejudge their solution;
>
> Noting also the steps already initiated on these subjects by certain organs of the League of Nations,
>
> Desires to affirm the importance of the work already undertaken or to be undertaken regarding these matters, either through scientific research, or by practical methods, that is measures of protection and collaboration which may be recognised as necessary for the safeguarding of riches constituting the common patrimony.

ANNEX I

THE LEGAL STATUS OF THE TERRITORIAL SEA

GENERAL PROVISIONS

Article 1

The territory of a State includes a belt of sea described in this Convention as the territorial sea.

Sovereignty over this belt is exercised subject to the conditions prescribed by the present Convention and the other rules of international law.

Observations

The idea which it has been sought to express by stating that the belt of territorial sea forms part of the territory of the State is that the power exercised by the State over this belt is in its nature in no way different from the power which the State exercises over its domain on land. This is also the reason why the term "sovereignty" has been retained, a term which better than any other describes the juridical nature of this power. Obviously, sovereignty over the territorial sea, like sovereignty over the domain on land, can only be exercised subject to the conditions laid down by international law. As the limitations which international law imposes on the power of the State in respect of the latter's sovereignty over the territorial

sea are greater than those it imposes in respect of the domain on land, it has not been thought superfluous to make special mention of these limitations in the text of the article itself. These limitations are to be sought in the first place in the present Convention; as, however, the Convention cannot hope to exhaust the matter, it has been thought necessary to refer also to the other rules of international law.

There was some hesitation whether it would be better to use the term "territorial waters" or the term "territorial sea". The use of the first term, which was employed by the Preparatory Committee, may be said to be more general and it is employed in several international conventions. There can, however, be no doubt that this term is likely to lead—and indeed has led—to confusion, owing to the fact that it is also used to indicate inland waters, or the sum total of inland waters and "territorial waters" in the restricted sense of this latter term. For these reasons, the expression "territorial sea" has been adopted.

Article 2

The territory of a Coastal State includes also the air space above the territorial sea, as well as the bed of the sea, and the subsoil.

Nothing in the present Convention prejudices any conventions or other rules of international law relating to the exercise of sovereignty in these domains.

Observations

It has been thought desirable that a formal provision should be inserted concerning the juridical status of the air above the territorial sea, the bed of the sea, and the subsoil. The text as drafted is on similar lines to the previous article. It therefore follows that the Coastal State may also exercise sovereignty in the air space above the territorial sea, and over the bed of the sea and the subsoil. It is important to emphasise that in these domains also sovereignty is limited by the rules of international law. As regards the territorial sea, including the air and the bed of the sea as used in maritime navigation, these limitations are, in the first place, to be found in the present Convention. So far as concerns the air space the matter is governed by the provisions of other conventions; as regards the bed of the sea and the subsoil, there are but few rules of international law.

RIGHT OF PASSAGE

Article 3

"Passage" means navigation through the territorial sea for the purpose either of traversing that sea without entering inland waters, or of proceeding to inland waters, or of making for the high sea from inland waters.

Passage is not *innocent* when a vessel makes use of the territorial sea of a Coastal State for the purpose of doing any act prejudicial to the security, to the public policy or to the fiscal interests of that State.

Passage includes stopping and anchoring, but in so far only as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

Observations

For a passage to be deemed other than innocent, the territorial sea must be used for the purpose of doing some act prejudicial to the security, to the public policy or to the fiscal interests of the State. It is immaterial whether or not the intention to do such an act existed at the time when the vessel entered the territorial sea, provided that the act is in fact committed in that sea. In other words, the passage ceases to be innocent if the right accorded by international law and defined in the present Convention is abused and in that event the Coastal State resumes its liberty of action. The expression "fiscal interests" is to be interpreted in a wide sense, and includes all matters relating to Customs. Import, export and transit prohibitions, even when not enacted for revenue purposes but e.g. for purposes of public health, are covered by the language used in the second paragraph, promulgated by the Coastal State.

It should, moreover, be noted that when a State has undertaken international obligations relating to freedom of transit over its territory, either as a general rule or in favour of particular States, the obligations thus assumed also apply to the passage of the territorial sea. Similarly, as regards access to ports or navigable waterways, any facilities the State may have granted in virtue of international obligations concerning free access to ports, or shipping on the said waterways, may not be restricted by measures taken in those portions of the territorial sea which may reasonably be regarded as approaches to the said ports or navigable waterways.

I. VESSELS OTHER THAN WARSHIPS

Article 4

A Coastal State may put no obstacles in the way of the innocent passage of foreign vessels in the territorial sea.

Submarine vessels shall navigate on the surface.

Observations

The expression "vessels other than warships" includes not only merchant vessels, but also vessels such as yachts, cable ships, etc., if they are not vessels belonging to the naval forces of a State at the time of the passage.

Article 5

The right of passage does not prevent the Coastal State from taking all necessary steps to protect itself in the territorial sea against any act prejudicial to the security, public policy or fiscal interests of the State, and, in the case of vessels proceeding to inland waters, against any breach of the conditions to which the admission of those vessels to those waters is subject.

Observations

The article gives the Coastal State the right to verify, if necessary, the innocent character of the passage of a vessel and to take the steps necessary to protect itself against any act prejudicial to its security, public policy, or fiscal interests. At the same time, in order to avoid unnecessary hindrances to navigation, the Coastal State is bound to act with great discretion in exercising this right. Its powers are wider if a vessel's intention to touch at a port is known, and include *inter alia* the right to satisfy itself that the conditions of admission to the port are complied with.

Article 6

Foreign vessels exercising the right of passage shall comply with the laws and regulations enacted in conformity with international usage by the Coastal State, and, in particular, as regards:

(*a*) the safety of traffic and the protection of channels and buoys;

(*b*) the protection of the waters of the Coastal State against pollution of any kind caused by vessels;

(*c*) the protection of the products of the territorial sea;

(*d*) the rights of fishing, shooting and analogous rights belonging to the Coastal State.

The Coastal State may not, however, apply these rules or regulations in such a manner as to discriminate between foreign vessels of different nationalities, nor, save in matters relating to fishing and shooting, between national vessels and foreign vessels.

Observations

International law has long recognised the right of the Coastal State to enact in the general interest of navigation special regulations applicable to vessels exercising the right of passage through the territorial sea. The principal powers which international law has hitherto recognised as belonging to the Coastal State for this purpose are defined in this Article.

It has not been considered desirable to include any special provision extending the right of innocent passage to persons and merchandise on board vessels. It need hardly be said that there is no intention to limit the right of passage to the vessels alone, and that persons and property on board are also included. A provision however specially referring to "persons and merchandise" would on the one hand have been incomplete because it would not e.g. cover such things as mails or passengers' luggage, whilst on the other hand it would have gone too far because it might have excluded the right of the Coastal State to arrest an individual or to seize goods on board.

The term "enacted" must be understood in the sense that the laws and regulations are to be duly promulgated. Vessels infringing the laws and regulations which have been properly enacted are clearly amenable to the courts of the Coastal State.

The last paragraph of the Article must be interpreted in a broad sense; it does not refer only to the laws and regulations themselves, but to all measures taken by the Coastal State for the purposes of the Article.

Article 7

No charge may be levied upon foreign vessels by reason only of their passage through the territorial sea.

Charges may only be levied upon a foreign vessel passing through the territorial sea as payment for specific services rendered to the vessel. These charges shall be levied without discrimination.

Observations

The object of this article is to exclude any charges in respect of general services to navigation (light or conservancy dues, etc.), and to allow payment to be demanded only for special services rendered to the vessel (pilotage, towage, etc.). These latter charges must be made on a basis of strict equality and with no discrimination between one vessel and another.

The provision of the first paragraph will include the case of compulsory anchoring in the territorial sea, in the circumstances indicated in Article 3, last paragraph.

Article 8

A Coastal State may not take any steps on board a foreign vessel passing through the territorial sea to arrest any person or to conduct any investigation by reason of any crime committed on board the vessel during its passage, save only in the following cases:

(1) if the consequences of the crime extend beyond the vessel; or

(2) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(3) if the assistance of the local authorities has been requested by the captain of the vessel or by the consul of the country whose flag the vessel flies.

The above provisions do not affect the right of the Coastal State to take any steps authorised by its laws for the purpose of an arrest or investigation on board a foreign vessel in the inland waters of that State or lying in its territorial sea, or passing through the territorial sea after leaving the inland waters.

The local authorities shall in all cases pay due regard to the interests of navigation when making an arrest on board a vessel.

Observations

In the case of an offence committed on board a foreign vessel in the territorial sea, a conflict of jurisdiction may arise between the Coastal State and the State whose flag the vessel flies. If the Coastal State wishes to stop the vessel with a view to bringing the guilty party before its courts, another kind of conflict may arise: that is to say between the interests of navigation, which ought to be interfered with as little as possible, and the interests of the

Coastal State in its desire to make its criminal laws effective throughout the whole of its territory. The proposed article does not attempt to provide a solution for the first of these conflicts; it deals only with the second. The question of the judicial competence of each of the two States is thus left unaffected, except that the Coastal State's power to arrest persons or carry out investigations (e.g. a search) *during the passage* of the foreign vessel through its waters will be confined to the cases enumerated in the article. In cases not provided for in the article, legal proceedings may still be taken by the Coastal State against an offender if the latter is found ashore. It was considered whether the words "in the opinion of the competent local authority" should not be added in (2) after the word "crime", but the suggestion was not adopted. In any dispute between the Coastal State and the flag State some objective criterion is desirable and the introduction of these words would give the local authority an exclusive competence which it is scarcely entitled to claim.

The Coastal State cannot stop a foreign vessel passing through the territorial sea without entering the inland waters of the State simply because there happened to be on board a person wanted by the judicial authorities of the State for some punishable act committed elsewhere than on board the vessel. It would be still less possible for a request for extradition addressed to the Coastal State in respect of an offence committed abroad to be regarded as a valid ground for interrupting the vessel's voyage.

In the case of a vessel lying in the territorial sea, the jurisdiction of the Coastal State will be regulated by the State's own municipal law and will necessarily be more extensive than in the case of vessels which are simply passing through the territorial sea along the coast. The same observation applies to vessels which have been in one of the ports or navigable waterways of the Coastal State. The Coastal State, however, must always do its utmost to interfere as little as possible with navigation. The inconvenience caused to navigation by the stopping of a large liner outward bound in order to arrest a person alleged to have committed some minor offence on land can scarcely be regarded as of less importance than the interest which the State may have in securing the arrest of the offender. Similarly, the judicial authorities of the Coastal State should, as far as possible, refrain from arresting any of the officers or crew of the vessel if their absence would make it impossible for the voyage to continue.

Article 9

A Coastal State may not arrest nor divert a foreign vessel passing through the territorial sea, for the purpose of exercising civil jurisdiction in relation to a person on board the vessel. A Coastal State may not levy execution against or arrest the vessel for the purpose of any civil proceedings save only in respect of obligations or liabilities incurred by the vessel itself in the course of or for the purpose of its voyage through the waters of the Coastal State.

The above provisions are without prejudice to the right of the Coastal State in accordance with its laws to levy execution against, or to arrest, a foreign vessel in the inland waters of the State or lying in the territorial sea, or passing through the territorial sea after leaving the inland waters of the State, for the purpose of any civil proceedings.

Observations

The rules adopted for criminal jurisdiction have been closely followed. A vessel which is only navigating the territorial sea without touching the inland waters of the Coastal State may in no circumstances be stopped for the purpose of exercising civil jurisdiction in relation to any person on board or for levying execution against or for arresting the vessel itself except as a result of events occurring in the waters of the Coastal State during the voyage in question, as for example, a collision, salvage, etc., or in respect of obligations incurred for the purpose of the voyage.

Article 10

The provisions of the two preceding Articles (Arts. 8 and 9) are without prejudice to the question of the treatment of vessels exclusively employed in a governmental and non-commercial service, and of the persons on board such vessels.

Observations

The question arose whether, in the case of vessels belonging to a Government and operated by a Government for commercial purposes, certain privileges and immunities might be claimed as regards the application of Articles 8 and 9. The Brussels Convention relating to the immunity of State-owned vessels deals with immunity in the matter of civil jurisdiction. In the light of the principles and definitions embodied in that Convention (see in particular Article 3), the Article now under consideration lays down that the rules set out in the two preceding Articles are without prejudice to the question of the treatment of vessels exclusively employed in a governmental and non-commercial service, and the persons on board such vessels. Government vessels operated for commercial purposes therefore fall within the scope of Articles 8 and 9.

Article 11

The pursuit of a foreign vessel for an infringement of the laws and regulations of a Coastal State begun when the foreign vessel is within the inland waters or territorial sea of the State may be continued outside the territorial sea so long as the pursuit has not been interrupted. The right of pursuit ceases as soon as the vessel which is pursued enters the territorial sea of its own country or of a third State.

The pursuit shall only be deemed to have begun when the pursuing vessel has satisfied itself by bearings, sextant angles, or other like means that the

pursued vessel or one of its boats is within the limits of the territorial sea, and has begun the pursuit by giving the signal to stop. The order to stop shall be given at a distance which enables it to be seen or heard by the other vessel.

A capture on the high sea shall be notified without delay to the State whose flag the captured vessel flies.

Observations

This article recognises the "right of pursuit" of the Coastal State and states the principles with some precision. When the foreign vessel in the territorial sea receives the order to stop, the vessel giving the order need not necessarily be in that sea also. This case arises in practice in connection with patrol vessels which, in order to police the fisheries, cruise along the coast at a little distance outside the limits of the territorial sea. In such case, when the pursuit commences, it will be sufficient if the offending vessel (or its boats, if the infringement is being committed by their means) is within the territorial sea.

Pursuit must be continuous; once interrupted, it may not be resumed. The question whether a pursuit has or has not been interrupted is a question of fact. The right of pursuit ceases in every case as soon as the vessel enters the territorial sea of its own country or of a third State.

The point was raised: at what precise moment may pursuit be deemed to have begun? If a patrol vessel receives a wireless message informing it that an offence has been committed and sets out without having seen the offending vessel, can it be said that pursuit has already begun? The conclusion reached was that it can not. Pursuit can not be deemed to have begun until the pursuing vessel has ascertained for itself the actual presence of a foreign vessel in the territorial sea and has, by means of any recognised signal, given it the order to stop. It was thought that, to avoid abuses, an order transmitted by wireless should not be regarded as sufficient, since there were no limits to the distance from which such an order might be given.

The arrest of a foreign vessel on the high sea is an occurrence of so exceptional a nature that, in order to avoid misunderstandings, the State whose flag the vessel flies must be notified of the reasons for the arrest. It was therefore deemed advisable to require the State of the vessel effecting the capture to notify the other State concerned.

II. WARSHIPS

Article 12

As a general rule, a Coastal State will not forbid the passage of foreign warships in its territorial sea and will not require a previous authorisation or notification.

The Coastal State has the right to regulate the conditions of such passage.

Submarines shall navigate on the surface.

Observations

To state that a Coastal State will not forbid the innocent passage of foreign warships through its territorial sea is but to recognise existing practice. That practice also, without laying down any strict and absolute rule, leaves to the State the power, in exceptional cases, to prohibit the passage of foreign warships in its territorial sea.

The Coastal State may regulate the conditions of passage, particularly as regards the number of foreign units passing simultaneously through its territorial sea—or through any particular portion of that sea—though as a general rule no previous authorisation or even notification will be required.

Under no pretext, however, may there be any interference with the passage of warships through straits constituting a route for international maritime traffic between two parts of the high sea.

Article 13

If a foreign warship passing through the territorial sea does not comply with the regulations of the Coastal State and disregards any request for compliance which may be brought to its notice, the Coastal State may require the warship to leave the territorial sea.

Observations

A special stipulation to the effect that warships must, in the territorial sea, respect the local laws and regulations has been thought unnecessary. Nevertheless, it seemed advisable to indicate that on non-observance of these regulations the right of free passage ceases and that consequently the warship may be required to leave the territorial sea.

Annex II

REPORT OF SUB-COMMITTEE NO. II

BASE LINE

Subject to the provisions regarding bays and islands, the breadth of the territorial sea is measured from the line of low-water mark along the entire coast.

For the purposes of this Convention, the line of low-water mark is that indicated on the charts officially used by the Coastal State, provided the latter line does not appreciably depart from the line of mean low-water spring tides.

Elevations of the sea bed situated within the territorial sea, though only above water at low tide, are taken into consideration for the determination of the base line of the territorial sea.

Observations

The line of low-water mark following all the sinuosities of the coast is taken as the basis for calculating the breadth of the territorial sea, excluding

the special cases of (1) bays, (2) islands near the coast and (3) groups of islands, which will be dealt with later. The article is only concerned with the general principle.

The traditional expression "low-water mark" may be interpreted in different ways and requires definition. In practice, different States employ different criteria to determine this line. The two following criteria have been taken more particularly into consideration: first, the low-water mark indicated on the charts officially used by the Coastal State, and, secondly, the line of mean low-water spring tides. Preference was given to the first, as it appeared to be the more practical. Not every State, it is true, possesses official charts published by its own hydrographic services, but every Coastal State has some chart adopted as official by the State authorities, and a phrase has therefore been used which also includes these charts.

The divergencies due to the adoption of different criteria on the different charts are very slight and can be disregarded. In order to guard against abuse, however, the proviso has been added that the line indicated on the chart must not depart appreciably from the more scientific criterion: the line of mean low-water spring tides. The term "appreciably" is admittedly vague. Inasmuch, however, as this proviso would only be of importance in a case which was clearly fraudulent, and as, moreover, absolute precision would be extremely difficult to attain, it is thought that it might be accepted.

If an elevation of the sea bed which is only uncovered at low tide is situated within the territorial sea off the mainland, or off an island, it is to be taken into consideration on the analogy of the North Sea Fisheries Convention of 1882 in determining the base line of the territorial sea.

It must be understood that the provisions of the present Convention do not prejudge the questions which arise in regard to coasts which are ordinarily or perpetually ice-bound.

BAYS

In the case of bays the coasts of which belong to a single State, the belt of territorial waters shall be measured from a straight line drawn across the opening of the bay. If the opening of the bay is more than ten miles wide, the line shall be drawn at the nearest point to the entrance at which the opening does not exceed ten miles.

Observations

It is admitted that the base line provided by the sinuosities of the coast should not be maintained under all circumstances. In the case of an indentation which is not very broad at its opening, such a bay should be regarded as forming part of the inland waters. Opinions were divided as to the breadth at which this opening should be fixed. Several Delegations were of opinion that bays, the opening of which did not exceed ten miles, should be regarded as inland waters; an imaginary line should be traced across the bay between the two points jutting out furthest, and this line would serve as

a basis for determining the breadth of the territorial waters. If the opening of the bay exceeds ten miles, this imaginary line will have to be drawn at the first place, starting from the opening, at which the width of the bay does not exceed ten miles. This is the system adopted i.a. in the North Sea Fisheries Convention of May 6th, 1882. Other Delegations were only prepared to regard the waters of a bay as inland waters if the two zones of territorial sea met at the opening of the bay, in other words, if the opening did not exceed twice the breadth of the territorial sea. States which were in favour of a territorial belt of three miles held that the opening should therefore not exceed six miles. Those who supported this opinion were afraid that the adoption of a greater width for the imaginary lines traced across bays might undermine the principle enunciated in the preceding article so long as the conditions which an indentation has to fulfil in order to be regarded as a bay remained undefined. Most Delegations agreed to a width of ten miles, provided a system were simultaneously adopted under which slight indentations would not be treated as bays.

However, these systems could only be applied in practice if the Coastal States enabled sailors to know how they should treat the various indentations of the coast.

Two systems were proposed; these have been set out as annexes to the observations on this article. The Sub-Committee gave no opinion regarding these systems, desiring to reserve the possibility of considering other systems or modifications of either of the above systems.

Appendix A

Proposal of the Delegation of the United States of America

In the case of a bay or estuary the coasts of which belong to a single State, or to two or more States which have agreed upon a division of the waters thereof, the determination of the status of the waters of the bay or estuary shall be made in the following manner:

(1) On a chart or map a straight line not to exceed ten nautical miles in length shall be drawn across the bay or estuary as follows: The line shall be drawn between two headlands or pronounced convexities on the coast which embrace the pronounced indentation or concavity comprising the bay or estuary if the distance between the two headlands does not exceed ten nautical miles; otherwise the line shall be drawn through the point nearest to the entrance at which the width does not exceed ten nautical miles;

(2) The envelope of all arcs of circles having a radius equal to one-fourth the length of the straight line across the bay or estuary shall then be drawn from all points on the coast of the mainland (at whatever line of sea-level is adopted on the charts of the coastal State) but such arcs of circles shall not be drawn around islands in connection with the process which is next described;

(3) If the area enclosed within the straight line and the envelope of the arcs of circles exceeds the area of a semi-circle whose diameter is equal to one-half the length of the straight line across the bay or estuary, the waters of the bay or estuary inside of the straight line shall be regarded, for the purposes of this convention, as interior waters; otherwise they shall not be so regarded.

When the determination of the status of the waters of a bay or estuary has been made in the manner described above, the delimitation of the territorial waters shall be made as follows:

(1) If the waters of the bay or estuary are found to be interior waters, the straight line across the entrance or across the bay or estuary shall be regarded as the boundary between interior waters and territorial waters, and the three-mile belt of territorial waters shall be measured outward from that line in the same manner as if it were a portion of the coast;

(2) Otherwise the belt of territorial waters shall be measured outward from all points on the coast line;

(3) In either case arcs of circles of three mile radius shall be drawn around the coasts of islands (if there be any) in accordance with provisions for delimiting territorial waters around islands.

Appendix B

Compromise-Proposal of the French Delegation

In the case of indentations where there is only one Coastal State, the breadth of the territorial sea may be measured from a straight line drawn across the opening of the indentation provided that the length of this line does not exceed ten miles and that the indentation may properly be termed a bay.

In order that an indentation may be properly termed a bay, the area comprised between the curve of the coast and its chord must be equal to or greater than the area of the segment of the circle the centre of which is situated on the perpendicular to the chord in its middle, at a distance from the chord equal to one half of the length of this chord and of which the radius is equal to the distance which separates this point from one end of the curve.

PORTS

In determining the breadth of the territorial sea, in front of ports the outermost permanent harbour works shall be regarded as forming part of the coast.

Observations

The waters of the port as far as a line drawn between the outermost fixed works thus constitute the inland waters of the Coastal State.

ROADSTEADS

Roadsteads used for the loading, unloading and anchoring of vessels, the limits of which have been fixed for that purpose by the Coastal State, are included in the territorial sea of that State, although they may be situated partly outside the general belt of territorial sea. The Coastal State must indicate the roadsteads actually so employed and the limits thereof.

Observations

It had been proposed that roadsteads which serve for the loading and unloading of vessels should be assimilated to *ports*. These roadsteads would then have been regarded as inland waters, and the territorial sea would have been measured from their outer limits. It was thought, however, impossible to adopt this proposal. Although it was recognised that the Coastal State must be permitted to exercise special rights of control and of police over the roadsteads, it was considered unjustifiable to regard the waters in question as inland waters, since in that case merchant vessels would have had no right of innocent passage through them. To meet these objections it was suggested that the right of passage in such waters should be expressly recognised, the practical result being that the only difference between such "inland waters" and the territorial sea would have been the possession by roadsteads of a belt of territorial sea of their own. As, however, such a belt was not considered necessary, it was agreed that the waters of the roadstead should be included in the territorial sea of the State, even if they extend beyond the general limit of the territorial sea.

ISLANDS

Every island has its own territorial sea. An island is an area of land, surrounded by water, which is permanently above high-water mark.

Observations

The definition of the term "island" does not exclude artificial islands, provided these are true portions of the territory and not merely floating works, anchored buoys, etc. The case of an artificial island erected near to the line of demarcation between the territorial waters of two countries is reserved.

An elevation of the sea bed, which is only exposed at low tide, is not deemed to be an island for the purpose of this Convention. (See however the above proposal concerning the Base Line.)

GROUPS OF ISLANDS

Observations

With regard to a group of islands (archipelago) and islands situated along the coast, the majority of the Sub-Committee was of opinion that a distance of 10 miles should be adopted as a basis for measuring the territorial sea outward in the direction of the high sea. Owing to the lack of technical

details, however, the idea of drafting a definite text on this subject had to be abandoned. The Sub-Committee did not express any opinion with regard to the nature of the waters included within the group.

STRAITS

In straits which form a passage between two parts of the high sea, the limits of the territorial sea shall be ascertained in the same manner as on other parts of the coast, even if the same State is the Coastal State of both shores.

When the width of the straits exceeds the breadth of the two belts of territorial sea, the waters between those two belts form part of the high sea. If the result of this delimitation is to leave an area of high sea not exceeding two miles in breadth surrounded by territorial sea, this area may be assimilated to territorial sea.

Observations

Within the straits with which this Article deals the belts of sea around the coast constitute territorial sea in the same way as on any other part of the coast. The belt of sea between the two shores may not be regarded as inland waters, even if the two belts of territorial sea and both shores belong to the same State. The rules governing the line of demarcation between the ordinary inland waters and the territorial sea are the same as on other parts of the coast.

When the width throughout the straits exceeds the sum of the breadths of the two belts of territorial sea, there is a channel of the high sea through the strait. On the other hand, if the width throughout the strait is less than the breadth of the two belts of territorial sea, the waters of the strait will be territorial waters. Other cases may and in fact do arise: at certain places the width of the strait is greater than, while elsewhere it is equal to or less than, the total breadth of the two belts of territorial sea. In these cases, portions of the high sea may be surrounded by territorial sea. It was thought that there was no valid reason why these enclosed portions of sea—which may be quite large in area—should not be treated as the high sea. If such areas are of very small extent, however, practical reasons justify their assimilation to territorial sea; but it is proposed in the Article to confine such exceptions to "enclaves" of sea not more than two nautical miles in width.

Just as in the case of bays which lie within the territory of more than one Coastal State, it has been thought better not to draw up any rules regarding the drawing of the line of demarcation between the respective territorial seas in straits lying within the territory of more than one Coastal State and of a width less than the breadth of the two belts of territorial sea.

The application of the Article is limited to straits which serve as a passage between two parts of the high sea. It does not touch the regulation of straits which give access to inland waters only. As regards such straits, the

rules concerning bays, and where necessary islands, will continue to be applicable.

PASSAGE OF WARSHIPS THROUGH STRAITS

Under no pretext whatever may the passage even of warships through straits used for international navigation between two parts of the high sea be interfered with.

Observations

According to the previous Article the waters of straits which do not form part of the high sea constitute territorial sea. It is essential to ensure in all circumstances the passage of merchant vessels and warships through straits between two parts of the high sea and forming ordinary routes of international navigation.

DELIMITATION OF THE TERRITORIAL SEA AT THE MOUTH OF A RIVER

When a river flows directly into the sea, the waters of the river constitute inland water up to a line following the general direction of the coast drawn across the mouth of the river whatever its width. If the river flows into an estuary, the rules applicable to bays apply to the estuary.

3. Developments Leading to the First United Nations Conference on the Law of the Sea

Truman Proclamation on the Continental Shelf
September 28, 1945*

* Presidential Proclamation No. 2667, 3 C.F.R. 67 (1943-1948 Compilation).

PROCLAMATION 2667

POLICY OF THE UNITED STATES WITH RESPECT TO THE NATURAL RESOURCES OF THE SUBSOIL AND SEA BED OF THE CONTINENTAL SHELF [1]

WHEREAS the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and

WHEREAS its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilization is already practicable or will become so at an early date; and

WHEREAS recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilization when and as development is undertaken; and

WHEREAS it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the effectiveness of measures to utilize or conserve these resources would be contingent upon cooperation and protection from the shore, since the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of the nature necessary for utilization of these resources;

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 28th day of September, in the year of our Lord nineteen hundred and
[SEAL] forty-five, and of the Independence of the United States of America the one hundred and seventieth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Acting Secretary of State.

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[1] See Executive Order 9633, *infra*.

Decree No. 14,708 Concerning National Sovereignty Over the Epicontinental Sea and the Argentine Continental Shelf, October 11, 1946*

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/1 at 4 (1951).

(b) DECREE NO. 14,708, CONCERNING NATIONAL SOVEREIGNTY OVER EPICONTINENTAL SEA AND THE ARGENTINE CONTINENTAL SHELF, 11 OCTOBER 1946. "BOLETÍN OFICIAL DE LA REPÚBLICA ARGENTINA", VOL. 54, NO. 15,641 (5 DECEMBER 1946), P. 2. TRANSLATION FROM "AMERICAN JOURNAL OF INTERNATIONAL LAW", VOL. 41 (1947), SUPPLEMENT, P. 11, AS REVISED BY THE SECRETARIAT OF THE UNITED NATIONS

Whereas:

The submarine platform, known also as the submarine plateau or continental shelf, is closely united to the mainland both in a morphological and a geological sense;

The waters covering the submarine platform constitute the epicontinental seas, characterized by extraordinary biological activity, owing to the influence of the sunlight, which stimulates plant life (algae, mosses, etc.) and the life of innumerable species of animals, both susceptible of industrial utilization;

The Executive Power, in article 2 of Decree No. 1,386, dated 24 January 1944, issued a categorical proclamation of sovereignty over the "Argentine continental shelf" and the "Argentine epicontinental sea", declaring them to be "transitory zones of mineral reserves";

The State, through the medium of the *Yacimientos Petrolíferos Fiscales* (Public Petroleum Deposits Administration), is exploiting the petroleum deposits discovered along the "Argentine continental shelf", thereby confirming the Argentine nation's right of ownership over all deposits situated in the aforesaid continental shelf;

It is the purpose of the Executive Power to continue, more and more intensively, its scientific and technical investigations respecting all phases of the exploration and exploitation of the animal, vegetable and mineral wealth, which offer such vast potentialities, contained in the Argentine continental shelf and in the corresponding epicontinental sea;

In the international sphere, conditional recognition is accorded to the right of each nation to consider as national territory the entire extent of its epicontinental sea and of the adjacent continental shelf;

Relying upon this principle, the Governments of the United States of America and of Mexico have issued declarations asserting the sovereignty of each of the two countries over the respective peripheral epicontinental seas and continental shelves (Proclamation of President Truman, dated 28 September 1945, and Declaration of President Avila Camacho, dated 29 October 1945);

The doctrine in question, apart from the fact that it is implicitly accepted in modern international law, is now deriving support from the realm of science in the form of serious and valuable contributions, as is evidenced by numerous national and foreign publications and even by official educational programmes; and

The manifest validity of the thesis set forth above, as well as the determination of the Argentine Government to perfect and preserve all the attributes inherently bound up with the exercise of national

sovereignty, make it advisable to formulate the corresponding declaration, thereby amplifying the effects of the aforesaid Decree No. 1,386.

The President of the Argentine Nation, supported by a General Accord of the Ministers

Decrees:

Article 1. It is hereby declared that the Argentine epicontinental sea and continental shelf are subject to the sovereign power of the nation;

Article 2. For purposes of free navigation, the character of the waters situated in the Argentine epicontinental sea and above the Argentine continental shelf, remains unaffected by the present Declaration;

Article 3. The present Declaration shall be brought to the attention of the Honourable Congress, published, transmitted to the National Registry and filed.

Note. On 2 July 1948 the Government of the United States of America sent the following note to the Government of Argentina (United Nations document A/CN.4/19, p. 115);

"At the direction of my Government I have the honor to state that the United States Government has carefully studied the Declaration of the President of the Argentine Nation of 11 October 1946 concerning the industrial utilization of the resources of the continental shelf and the coastal seas, together with Decree No. 1386 of 24 January 1944 which the Declaration amplifies. The Declaration cites the Proclamations of the United States of 28 September 1945 in the Preamble. My Government is accordingly confident that His Excellency, the President of the Argentine Nation, in formulating the Declaration, was actuated by the same long-range considerations with respect to the wise conservation and utilization of natural resources as motivated President Truman in proclaiming the policy of the United States relative to the natural resources of the sub-soil and sea bed of the continental shelf and its policy relative to coastal fisheries in certain areas of the high seas. The United States Government, aware of the inadequacy of past arrangements for the effective conservation and utilization of such resources, views with sympathy the considerations which led the Argentine Government to formulate its Declaration.

"At the same time, the United States Government notes that the principles underlying the Argentine Declaration differ in large measure from those of the United States Proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular that (1) the Argentine Declaration decrees national sovereignty over the continental shelf and over the seas adjacent to the coasts of Argentina outside the generally accepted limits of territorial waters, and (2) the Declaration fails, with respect to fishing, to accord recognition to the rights and interests of the United States in the high seas off the coasts of Argentina. In view of these considerations, the United States Government wishes to inform the Argentine Government that it reserves the rights and interests of the United States so far as concerns any effects of the Declaration of 11 October 1946 or of any measures designed to carry that Declaration into execution.

"The reservations thus made by the United States Government are not intended to have relation to or to prejudge any Argentine claims with reference to the Antarctic Continent or other land areas.

"I may state for Your Excellency's information that the United States Government is similarly reserving these rights and interests with respect to decrees of the Governments of Chile and Peru which purport to extend sovereignty beyond the general accepted limits of territorial waters."

Santiago Declaration on the Maritime Zone, August 18, 1952*

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/6 at 723 (1956).

20) AGREEMENTS [3] BETWEEN CHILE, ECUADOR AND PERU, SIGNED AT THE FIRST CONFERENCE ON THE EXPLOITATION AND CONSERVATION OF THE MARITIME RESOURCES OF THE SOUTH PACIFIC, SANTIAGO, 18 AUGUST 1952

(*a*) DECLARATION ON THE MARITIME ZONE [4]

1. Governments are bound to ensure for their peoples access to necessary food supplies and to furnish them with the means of developing their economy.

2. It is therefore the duty of each Government to ensure the conservation and protection of its natural resources and to regulate the use thereof to the greatest possible advantage of its country.

3. Hence it is likewise the duty of each Government to prevent the said resources from being used outside the area of its jurisdiction so as to endanger their existence, integrity and conservation to the prejudice of peoples so situated geographically that their seas are irreplaceable sources of essential food and economic materials.

For the foregoing reasons the Government of Chile, Ecuador and Peru, being resolved to preserve for and make available to their respective peoples the natural resources of the areas of sea adjacent to their coasts, hereby declare as follows:

(I) Owing to the geological and biological factors affecting the existence, conservation and development of the marine fauna and flora of the waters adjacent to the coasts of the declarant countries, the former extent of the territorial sea and contiguous zone is insufficient to permit of the conservation, development and use of those resources, to which the coastal countries are entitled.

(II) The Governments of Chile, Ecuador and Peru therefore proclaim as a principle of their international maritime policy that each of them possesses sole sovereignty and jurisdiction over the area of sea adjacent to the coast of its own country and extending not less than 200 nautical miles from the said coast.

(III) Their sole jurisdiction and sovereignty over the zone thus described includes sole sovereignty and jurisdiction over the sea floor and subsoil thereof.

(IV) The zone of 200 nautical miles shall extend in every direction from any island or group of islands forming part of the territory of a declarant country. The maritime zone of an island or group of islands belonging to one declarant country and situated less than 200 nautical miles from the general maritime zone of another declarant country shall be bounded by the parallel of latitude drawn from the point at which the land frontier between the two countries reaches the sea.

(V) This Declaration shall not be construed as disregarding the necessary restrictions on the exercise of sovereignty and jurisdiction imposed by international law to permit the innocent and inoffensive passage of vessels of all nations through the zone aforesaid.

(VI) The Governments of Chile, Ecuador and Peru state that they intend to sign agreements or conventions to put into effect the principles set forth in this Declaration and to establish general regulations for the control and protection of hunting and fishing in their respective maritime zones and the control and co-ordination of the use and working of all other natural products or resources of common interest present in the said waters.

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[3] Ratified by all the signatory States. Costa-Rica has acceded.

[4] *Revista Peruana de Derecho Internacional*, tomo XIV, No. 45, 1954, pp. 104 *et seq.* Translation by the Secretariat of the United Nations.

4. The First United Nations Conference on the Law of the Sea

Draft Articles on the Law of the Sea Adopted by the International Law Commission at its Eight Session, 1956*

* 11 U.N. GAOR Supp. (No.9) at 2, U.N. Doc. A/3159 (1956).

Chapter II

LAW OF THE SEA

I. Introduction

7. At its first session (1949), the International Law Commission drew up a provisional list of topics whose codification it considered necessary and feasible. Among the items in this list were the régime of the high seas and the régime of the territorial sea. The Commission included the régime of the high seas among the topics to be given priority and appointed Mr. J. P. A. François special rapporteur for it. Subsequently, at its third session (1951), in pursuance of a recommendation contained in General Assembly resolution 374 (IV), the Commission decided to initiate work on the régime of the territorial sea and appointed Mr. François special rapporteur for that topic as well.

(a) Régime of the high seas

8. At its second session (1950), the Commission considered the question of the high seas, taking as a basis of discussion the report of the special rapporteur (A/CN.4/17). The Commission was of the opinion that it could not undertake the codification of the law of the high seas in all its aspects, and that it would have to select the subjects which it could take up in the first phase of its work on the topic. The Commission thought it could for the time being leave aside all those subjects which were being studied by other United Nations organs or by specialized agencies. The Commission also left out subjects which, because of their technical nature, were not suitable for study by it. Lastly, it set aside a number of other subjects the importance of which did not appear to justify consideration at that stage of the work.

9. At the third session (1951), the Special Rapporteur submitted his second report on the high seas (A/CN.4/42). The Commission first examined the chapters of the report dealing with the continental shelf and various related subjects, namely, conservation of the resources of the sea, sedentary fisheries and the contiguous zone. The Commission decided to publish its draft on these questions[1] in accordance with its statute, and to invite the Governments to submit their comments on it. The Commission also considered various other subjects part of the régime of the high seas, and requested the special rapporteur to submit a further report at its fourth session.

10. At its fourth session (1952), the Commission had before it the third report of the special rapporteur (A/CN.4/51). In addition, the Commission received comments on its draft articles on the continental shelf and related subjects from a number of Governments.[2] Owing to lack of time the Commission was obliged to defer consideration of these questions until its fifth session.

11. At its fifth session (1953), in the light of the comments from Governments and on the basis of a new report by the Special Rapporteur (A/CN.4/60), the Commission re-examined the following questions: (1) continental shelf; (2) fishery resources of the seas; (3) contiguous zone. In its work on the subject the Commission derived considerable assistance from a collection, in two volumes, published in 1951 and 1952 by the Division for the Development and Codification of International Law of the Legal Department of the Secretariat and entitled "Laws and Regulations on the Régime of the High Seas".[3] The Commission prepared revised drafts on the three questions mentioned above.[4] The Commission to some extent reversed the decision taken at its second session by requesting the special rapporteur to prepare for the sixth session a new report covering certain subjects concerning the high seas not dealt with in the earlier reports. While reverting to the idea of codifying the law of the sea, the Commission decided not to include any provisions on technical matters or to encroach on ground already covered in special studies by other United Nations organs or specialized agencies.

12. At the sixth session (1954), shortage of time prevented the Commission from dealing with the question of the high seas and from examining the special rapporteur's fifth report (A/CN.4/69), which was specially devoted to penal jurisdiction in matters of collision.

13. At its seventh session (1955), the Commission adopted, on the basis of the special rapporteur's sixth report (A/CN.4/79), a provisional draft on the régime of the high seas,[5] with commentaries, which was submitted to Governments for observation. The Commission also decided to communicate the chapter on the conservation of the living resources of the sea to the organizations represented by observers at the International Technical Conference on the Conservation of the Living Resources of the Sea, held at Rome from 18 April to 10 May 1955. In preparing the articles dealing with the conservation of the living resources of the sea, the Commission took account of the report[6] of that Conference.

14. At its eighth session (1956), the Commission examined replies from twenty-five Governments (A/CN.4/99 and Add.1 to 9) and from the International Commission for the Northwest Atlantic Fisheries (A/CN.4/100), together with a new report by the special rapporteur (A/CN.4/97 and Add.1 and 3). After careful study of these replies, it drew up a final report in which it incorporated some of the points made.

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[1] *Official Records of the General Assembly, Sixth Session, Supplement No. 9* (A/1858), annex.

[2] *Official Records of the General Assembly, Eighth Session, Supplement No. 9* (A/2456), annex II.

[3] ST/LEG/SER.B/1 and 2.

[4] *Official Records of the General Assembly, Eighth Session, Supplement No. 9* (A/2456), chapter III.

[5] *Official Records of the General Assembly, Tenth Session, Supplement No. 9* (A/2934), chapter II.

[6] *Report of the International Technical Conference on the Conservation of the Living Resources of the Sea, 18 April-10 May 1955, Rome. A/Conf.10/6.*

(*b*) Régime of the territorial sea

15. At its fourth session (1952), the Commission considered certain aspects of the régime of the territorial sea on the basis of a report by the special rapporteur (A/CN.4/53). It dealt in particular with the questions of baselines and bays. With regard to the delimitation of the territorial sea of two adjacent States, the Commission decided to ask Governments for particulars concerning their practice and for any observations they might consider useful. The Commission also decided that the special rapporteur should be free to consult with experts with a view to elucidating certain technical aspects of the problem.

16. The special rapporteur was asked to submit to the Commission at its fifth session (1953) a further report containing a draft regulation and comments revised in the light of opinions expressed at the fourth session. In compliance with this request, the special rapporteur on 19 February 1953 submitted a second report on the régime of the territorial sea (A/CN.4/61).

17. The group of experts mentioned above met at The Hague from 14 to 16 April 1953, under the chairmanship of the special rapporteur. Its members were: Professor L. E. G. Asplund (Geographic Survey Department, Stockholm); Mr. S. Whittemore Boggs (Special Adviser on Geography, Department of State, Washington, D. C.); Mr. P. R. V. Couillault, Ingénieur en chef du Service central hydrographique, Paris); Commander R. H. Kennedy, O.B.E., R.N. (Retd.), (Hydrographic Department, Admiralty, London) Accompanied by Mr. R. C. Shawyer (Administrative Officer, Admiralty, London); Vice-Admiral A. S. Pinke (Retd.), (Royal Netherlands Navy, The Hague). The group of experts submitted a report on technical questions. In the light of their comments, the special rapporteur amended and supplemented some of his own draft articles; these changes appear in an addendum to the second report on the régime of the territorial sea (A/CN.4/61/Add.1 and Corr.1) in which the report of the experts appears as an annex.

18. At its sixth session (1954), the special rapporteur submitted to the Commission a third report on the régime of the territorial sea (A/CN.4/77) in which he incorporated the changes suggested by the observations of the experts. He also took into account the comments received from Governments concerning the delimitation of the territorial sea between two adjacent States (A/CN.4/71 and Add.1 and 2).

19. At the sixth session, the Commission adopted a number of provisional articles concerning the régime of the territorial sea,[7] with a commentary, and invited Governments to furnish their observations on the articles.

20. The Secretary-General received comments from eighteen Member States of the United Nations.[8] At its seventh session (1955), recognizing the cogency of many of the comments, the Commission amended several of the articles.[9] The Commission also examined certain questions held over in its report of 1954 concerning, *inter alia*, the breadth of the territorial sea, bays and the delimitation of the territorial sea at the mouths of rivers. It submitted these articles to Governments for their comments.

[7] *Official Records of the General Assembly, Ninth Session, Supplement No. 9* (A/2693), chapter IV.

[8] *Official Records of the General Assembly, Tenth Session, Supplement No. 9* (A/2934), annex.

[9] *Ibid.*, chapter III.

21. At its eighth session (1956) the Commission examined the replies from twenty-five Governments (A/CN.4/99 and Add.1 to 9) on the basis of a report by the special rapporteur (A/CN.4/97 and Add.2). It then drew up its final report on this subject, incorporating a number of changes deriving from the replies from Governments.

(*c*) Law of the sea

22. In pursuance of General Assembly resolution 899 (IX) of 14 December 1954, the Commission has grouped together systematically all the rules it has adopted concerning the high seas, the territorial sea, the continental shelf, the contiguous zone and the conservation of the living resources of the sea. In consequence of this rearrangement the Commission has had to make certain changes in the texts adopted.

23. The final report on the subject is in two parts, the first dealing with the territorial sea and the second with the high seas. The second part is divided into three sections: (1) general régime of the high seas; (2) contiguous zone; (3) continental shelf. Each article is accompanied by a commentary.

24. The Commission wishes to preface the text of the articles adopted, by certain observations as to the way in which it considers that practical effect should be given to these rules.

25. When the International Law Commission was set up, it was thought that the Commission's work might have two different aspects: on the one hand the "codification of international law" or, in the words of article 15 of the Commission's statute, "the more precise formulation and systematization of rules of international law in fields where there already has been extensive State practice, precedent and doctrine"; and on the other hand, the "progressive development of international law" or "the preparation of draft conventions on subjects which have not yet been regulated by international law or in regard to which the law has not yet been sufficiently developed in the practice of States".

26. In preparing its rules on the law of the sea, the Commission has become convinced that, in this domain at any rate, the distinction established in the statute between these two activities can hardly be maintained. Not only may there be wide differences of opinion as to whether a subject is already "sufficiently developed in practice", but also several of the provisions adopted by the Commission, based on a "recognized principle of international law", have been framed in such a way as to place them in the "progressive development" category. Although it tried at first to specify which articles fell into one and which into the other category, the Commission has had to abandon the attempt, as several do not wholly belong to either.

27. In these circumstances, in order to give effect to the project as a whole, it will be necessary to have recourse to conventional means.

28. The Commission therefore recommends, in conformity with article 23, paragraph 1 (*d*) of its statute, that the General Assembly should summon an international conference of plenipotentiaries to examine the law of the sea, taking account not only of the legal but also of the technical, biological, economic and political aspects of the problem, and to embody the results of its work in one or more international conventions or such other instruments as it may deem appropriate.

29. The Commission is of the opinion that the conference should deal with the various parts of the law of the sea covered by the present report. Judging from its own experience, the Commission considers—and the comments of Governments have confirmed this view—that the various sections of the law of the sea hold together, and are so closely interdependent that it would be extremely difficult to deal with only one part and leave the others aside.

30. The Commission considers that such a conference has been adequately prepared for by the work the Commission has done. The fact that there have been fairly substantial differences of opinion on certain points should not be regarded as a reason for putting off such a conference. There has been widespread regret at the attitude of Governments after The Hague Codification Conference of 1930 in allowing the disagreement over the breadth of the territorial sea to dissuade them from any attempt at concluding a convention on the points on which agreement had been reached. The Commission expresses the hope that this mistake will not be repeated.

31. In recommending confirmation of the proposed rules as indicated in paragraph 28, the Commission has not had to concern itself with the question of the relationship between the proposed rules and existing conventions. The answer to that question must be found in the general rules of international law and the provisions drawn up by the proposed international conference.

32. The Commission also wishes to make two other observations, which apply to the whole draft:

1. The draft regulates the law of the sea in time of peace only.
2. The term "mile" means nautical mile (1,852 metres) reckoned at sixty to one degree of latitude.

33. The text of the articles concerning the law of the sea, as adopted[19] by the Commission, and the Commission's commentary to the articles are reproduced below.

II. Articles concerning the law of the sea

PART I

TERRITORIAL SEA

SECTION I. GENERAL

Juridical status of the territorial sea

Article 1

1. The sovereignty of a State extends to a belt of sea adjacent to its coast, described as the territorial sea.

2. This sovereignty is exercised subject to the conditions prescribed in these articles and by other rules of international law.

Juridical status of the air space over the territorial sea and of its bed and subsoil

Article 2

The sovereignty of a coastal State extends also to the air space over the territorial sea as well as to its bed and subsoil.

SECTION II. LIMITS OF THE TERRITORIAL SEA

Breadth of the territorial sea

Article 3

1. The Commission recognizes that international practice is not uniform as regards the delimitation of the territorial sea.

2. The Commission considers that international law does not permit an extension of the territorial sea beyond twelve miles.

3. The Commission, without taking any decision as to the breadth of the territorial sea up to that limit, notes, on the one hand, that many States have fixed a breadth greater than three miles and, on the other hand, that many States do not recognize such a breadth when that of their own territorial sea is less.

4. The Commission considers that the breadth of the territorial sea should be fixed by an international conference.

Normal baseline

Article 4

Subject to the provisions of article 5 and to the provisions regarding bays and islands, the breadth of the territorial sea is measured from the low-water line along the coast, as marked on large-scale charts officially recognized by the coastal State.

Straight baselines

Article 5

1. Where circumstances necessitate a special régime because the coast is deeply indented or cut into or because there are islands in its immediate vicinity, the baseline may be independent of the low-water mark. In these cases, the method of straight baselines joining appropriate points may be employed. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters. Account may nevertheless be taken, where necessary, of economic interests peculiar to a region, the reality and importance of which are clearly evidenced by a long usage. Baselines shall not be drawn to and from drying rocks and drying shoals.

2. The coastal State shall give due publicity to the straight baselines drawn by it.

3. Where the establishment of a straight baseline has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial

[19] Sir Gerald Fitzmaurice expressed his dissent from (1) the final paragraph of the commentary to article 3, in so far as it might suggest that the breadth of the territorial sea was not governed by any existing rule of international law; (2) article 24, in so far as it made the right of innocent passage of warships subject to prior notification or authorization. He recorded an abstention on those parts of article 47 (Right of hot pursuit) and the commentary thereto, that related to the question of hot pursuit from within a contiguous zone.

Mr. Krylov was not able to vote for articles 3 (Breadth of the territorial sea), 22 (Government ships operated for commercial purposes), article 39 (Piracy), 57 (Compulsory arbitration) and 73 (Compulsory jurisdiction).

Mr. Zourek, while having voted for the draft articles relating to the law of the sea as a whole, does not accept, for reasons indicated during the discussions, articles 3 (Breadth of the territorial sea), and 22 (Government ships operated for commercial purposes). He also maintained his reservations regarding article 7 (Bays). He remains opposed to articles 57, 59 and 73 relating to compulsory arbitration; he maintains his reservations regarding the definition of piracy in article 39 and does not accept the commentary relating to that article.

sea or of the high seas, a right of innocent passage, as defined in article 15, through those waters shall be recognized by the coastal State in all those cases where the waters have normally been used for international traffic.

Outer limit of the territorial sea

Article 6

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Bays

Article 7

1. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle drawn on the mouth of that indentation. If a bay has more than one mouth, this semi-circle shall be drawn on a line as long as the sum total of the length of the different mouths. Islands within a bay shall be included as if they were part of the water area of the bay.

2. The waters within a bay, the coasts of which belong to a single State, shall be considered internal waters if the line drawn across the mouth does not exceed fifteen miles measured from the low-water line.

3. Where the mouth of a bay exceeds fifteen miles, a closing line of such length shall be drawn within the bay. When different lines of such length can be drawn that line shall be chosen which encloses the maximum water area within the bay.

4. The foregoing provisions shall not apply to so-called "historic" bays or in any cases where the straight baseline system provided for in article 5 is applied.

Ports

Article 8

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Roadsteads

Article 9

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must give due publicity to the limits of such roadsteads.

Islands

Article 10

Every island has its own territorial sea. An island is an area of land, surrounded by water, which in normal circumstances is permanently above high-water mark.

Drying rocks and drying shoals

Article 11

Drying rocks and drying shoals which are wholly or partly within the territorial sea, as measured from the mainland or an island, may be taken as points of departure for measuring the extension of the territorial sea.

Delimitation of the territorial sea in straits and off other opposite coasts

Article 12

1. The boundary of the territorial sea between two States, the coasts of which are opposite each other at a distance less than the extent of the belts of territorial sea adjacent to the two coasts, shall be fixed by agreement between those States. Failing such agreement and unless another boundary line is justified by special circumstances, the boundary is the median line every point of which is equidistant from the nearest points on the baselines from which the breadths of the territorial seas of the two States are measured.

2. If the distance between the two States exceeds the extent of the two belts of territorial sea, the waters lying between the two belts shall form part of the high seas. Nevertheless, if, as a consequence of this delimitation, an area of the sea not more than two miles in breadth should be entirely enclosed within the territorial sea, that area may, by agreement between the coastal States, be deemed to be part of the territorial sea.

3. The first sentence of the preceding paragraph shall be applicable to cases where both coasts belong to one and the same coastal State. If, as a consequence of this delimitation, an area of the sea not more than two miles in breadth should be entirely enclosed within the territorial sea, that area may be declared by the coastal State to form part of its territorial sea.

4. The line of demarcation shall be marked on the officially recognized large-scale charts.

Delimitation of the territorial sea at the mouth of a river

Article 13

1. If a river flows directly into the sea, the territorial sea shall be measured from a line drawn *inter fauces terrarum* across the mouth of the river.

2. If the river flows into an estuary the coasts of which belong to a single State, article 7 shall apply.

Delimitation of the territorial sea of two adjacent States

Article 14

1. The boundary of the territorial sea between two adjacent States shall be determined by agreement between them. In the absence of such agreement, and unless another boundary line is justified by special circumstances, the boundary is drawn by application of the principle of equidistance from the nearest points on the baseline from which the breadth of the territorial sea of each country is measured.

2. The boundary line shall be marked on the officially recognized large-scale charts.

SECTION III. RIGHT OF INNOCENT PASSAGE

Sub-section A. General rules

Meaning of the right of innocent passage

Article 15

1. Subject to the provisions of the present rules, ships of all States shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage is innocent so long as the ship does not use the territorial sea for committing any acts prejudicial to the security of the coastal State or contrary to the present rules, or to other rules of international law.

4. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

5. Submarines are required to navigate on the surface.

Duties of the coastal State

Article 16

1. The coastal State must not hamper innocent passage through the territorial sea. It is required to use the means at its disposal to ensure respect for innocent passage through the territorial sea and must not allow the said sea to be used for acts contrary to the rights of other States.

2. The coastal State is required to give due publicity to any dangers to navigation of which it has knowledge.

Rights of protection of the coastal State

Article 17

1. The coastal State may take the necessary steps in its territorial sea to protect itself against any act prejudicial to its security or to such other of its interests as it is authorized to protect under the present rules and other rules of international law.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which the admission of those ships to those waters is subject.

3. The coastal State may suspend temporarily in definite areas of its territorial sea the exercise of the right of passage if it should deem such suspension essential for the protection of the rights referred to in paragraph 1. Should it take such action, it is bound to give due publicity to the suspension.

4. There must be no suspension of the innocent passage of foreign ships through straits normally used for international navigation between two parts of the high seas.

Duties of foreign ships during their passage

Article 18

Foreign ships exercising the right of passage shall comply with the laws and regulations enacted by the coastal State in conformity with the present rules and other rules of international law and, in particular, with the laws and regulations relating to transport and navigation.

Sub-section B. Merchant ships

Charges to be levied upon foreign ships

Article 19

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may only be levied upon a foreign ship passing through the territorial sea as payment for specific services rendered to the ship.

Arrest on board a foreign ship

Article 20

1. A coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation by reason of any crime committed on board the ship during its passage, save only in the following cases:

(*a*) If the consequences of the crime extend beyond the ship; or

(*b*) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(*c*) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship lying in its territorial sea or passing through the territorial sea after leaving internal waters.

3. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

Arrest of ships for the purpose of exercising civil jurisdiction

Article 21

1. A coastal State may not arrest or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. A coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea or passing through the territorial sea after leaving the internal waters.

Sub-section C. Government ships other than warships

Government ships operated for commercial purposes

Article 22

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

Government ships operated for non-commercial purposes

Article 23

The rules contained in sub-section A shall apply to government ships operated for non-commercial purposes.

Sub-section D. Warships

Passage

Article 24

The coastal State may make the passage of warships through the territorial sea subject to previous authorization or notification. Normally it shall grant innocent passage subject to the observance of the provisions of articles 17 and 18.

Non-observance of the regulations

Article 25

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which may be brought to its notice, the coastal State may require the warship to leave the territorial sea.

PART II

HIGH SEAS

SECTION I. GENERAL RÉGIME

Definition of the high seas

Article 26

1. The term "high seas" means all parts of the sea that are not included in the territorial sea, as contemplated by Part I, or in the internal waters of a State.

2. Waters within the baseline of the territorial sea are considered "internal waters".

Freedom of the high seas

Article 27

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas comprises, *inter alia:*

(1) Freedom of navigation;
(2) Freedom of fishing;
(3) Freedom to lay submarine cables and pipelines;
(4) Freedom to fly over the high seas.

Sub-section A. Navigation

The right of navigation

Article 28

Every State has the right to sail ships under its flag on the high seas.

Nationality of ships

Article 29

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. Nevertheless, for purposes of recognition of the national character of the ship by other States, there must exist a genuine link between the State and the ship.

2. A merchant ship's right to fly the flag of a State is evidenced by documents issued by the authorities of the State of the flag.

Status of ships

Article 30

Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

Ships sailing under two flags

Article 31

A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Immunity of warships

Article 32

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

2. For the purposes of these articles, the term "warship" means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

Immunity of other government ships

Article 33

For all purposes connected with the exercise of powers on the high seas by States other than the flag State, ships owned or operated by a State and used only on government service, whether commercial or non-commercial, shall be assimilated to and shall have the same immunity as warships.

Safety of navigation

Article 34

1. Every State is required to issue for ships under its jurisdiction regulations to ensure safety at sea with regard *inter alia* to:

(*a*) The use of signals, the maintenance of communications and the prevention of collisions;

(*b*) The crew which must be adequate to the needs of the ship and enjoy reasonable labour conditions;

(*c*) The construction, equipment and seaworthiness of the ship.

2. In issuing such regulations, each State is required to observe internationally accepted standards. It shall take the necessary measures to secure observance of the regulations.

Penal jurisdiction in matters of collision

Article 35

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which the accused person is a national.

2. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Duty to render assistance

Article 36

Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,

(*a*) To render assistance to any person found at sea in danger of being lost;

(*b*) To proceed with all speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(*c*) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

Slave trade

Article 37

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its colours, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its colours, shall *ipso facto* be free.

Piracy

Article 38

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 39

Piracy consists in any of the following acts:

(1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(*a*) On the high seas, against another ship or against persons or property on board such a ship;

(*b*) Against a ship, persons or property in a place outside the jurisdiction of any State;

(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(3) Any act of incitement or of intentional facilitation of an act described in sub-paragraph 1 or sub-paragraph 2 of this article.

Article 40

The acts of piracy, as defined in article 39, committed by a government ship or a government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private vessel.

Article 41

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 39. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 42

A ship or aircraft may retain its national character although it has become a pirate ship or aircraft. The retention or loss of national character is determined by the law of the State from which the national character was originally derived.

Article 43

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 44

Where the seizure of a ship or aircraft on suspicion of piracy has been affected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

Article 45

A seizure on account of piracy may only be carried out by warships or military aircraft.

Right of visit

Article 46

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

(*a*) That the ship is engaged in piracy; or

(*b*) That while in the maritime zones treated as suspect in the international conventions for the abolition of the slave trade, the ship is engaged in that trade; or

(*c*) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in sub-paragraphs (*a*), (*b*) and (*c*) above, the warship may proceed to verify the ship's title to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

Right of hot pursuit

Article 47

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship is within the internal waters or the territorial sea of the pursuing State, and may only be continued outside the territorial sea if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea receives the order to stop, the ship giving the order should likewise be within the territorial sea. If the foreign ship is within a contiguous zone, as defined in article 66, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by bearings, sextant angles or other like means, that the ship pursued or one of its boats is within the limits of the territorial sea or, as the case may be, within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft:

(*a*) The provisions of paragraphs 1 to 3 of the present article shall apply *mutatis mutandis;*

(*b*) The aircraft giving the order to stop must itself actively pursue the ship until a ship of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an enquiry before the competent authorities, may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

Pollution of the high seas

Article 48

1. Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

2. Every State shall draw up regulations to prevent pollution of the seas from the dumping of radioactive waste.

3. All States shall co-operate in drawing up regulations with a view to the prevention of pollution of the seas or air space above, resulting from experiments or activities with radioactive materials or other harmful agents.

Sub-section B. Fishing

Right to fish

Article 49

All States have the right for their nationals to engage in fishing on the high seas, subject to their treaty obligations and to the provisions contained in the following articles concerning conservation of the living resources of the high seas.

Conservation of the living resources of the high seas

Article 50

As employed in the present articles, the expression "conservation of the living resources of the high seas" means the aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply of food and other marine products.

Article 51

A State whose nationals are engaged in fishing in any area of the high seas where the nationals of other States are not thus engaged shall adopt measures for regulating and controlling fishing activities in that area when necessary for the purpose of the conservation of the living resources of the high seas.

Article 52

1. If the nationals of two or more States are engaged in fishing the same stock or stocks of fish or other marine resources in any area of the high seas, these States shall, at the request of any of them, enter into negotiations with a view to prescribing by agreement the necessary measures for the conservation of such resources.

2. If the States concerned do not reach agreement within a reasonable period of time, any of the parties may initiate the procedure contemplated by article 57.

Article 53

1. If, subsequent to the adoption of the measures referred to in articles 51 and 52, nationals of other States engage in fishing the same stock or stocks of fish or other marine resources in the same area, the conservation measures adopted shall be applicable to them.

2. If these other States do not accept the measures so adopted and if no agreement can be reached within a reasonable period of time, any of the interested parties may initiate the procedure contemplated by article 57. Subject to paragraph 2 of article 58, the measures adopted shall remain obligatory pending the arbitral decision.

Article 54

1. A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea,

2. A coastal State is entitled to take part on an equal footing in any system of research and regulation in that area, even though its nationals do not carry on fishing there.

3. If the States concerned do not reach agreement within a reasonable period of time, any of the parties may initiate the procedure contemplated by article 57.

Article 55

1. Having regard to the provisions of paragraph 1 of article 54, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within a reasonable period of time.

2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled:

(*a*) That scientific evidence shows that there is an urgent need for measures of conservation;

(*b*) That the measures adopted are based on appropriate scientific findings;

(*c*) That such measures do not discriminate against foreign fishermen.

3. If these measures are not accepted by the other States concerned, any of the parties may initiate the procedure contemplated by article 57. Subject to paragraph 2 of article 58, the measures adopted shall remain obligatory pending the arbitral decision.

Article 56

1. Any State which, even if its nationals are not engaged in fishing in an area of the high seas not adjacent to its coast, has a special interest in the conservation of the living resources in that area, may request the State whose nationals are engaged in fishing there to take the necessary measures of conservation.

2. If no agreement is reached within a reasonable period, such State may initiate the procedure contemplated by article 57.

Article 57

1. Any disagreement arising between States under articles 52, 53, 54, 55 and 56 shall, at the request of any of the parties, be submitted for settlement to an arbitral commission of seven members, unless the parties agree to seek a solution by another method of peaceful settlement.

2. Except as provided in paragraph 3, two members of the arbitral commission shall be named by the State or States on the one side of the dispute, and two members shall be named by the State or States contending to the contrary, but only one of the members nominated by each side may be a national of a State on that side. The remaining three members, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute. Failing agreement they shall, upon the request of any State party, be nominated by the Secretary-General of the United Nations after consultation with the President of the International Court of Justice and the Director-General of the United Nations Food and Agriculture Organization, from nationals of countries not parties to the dispute. If, within a period of three months from the date of the request for arbitration, there shall be a failure by those on either side in the dispute to name any member, such member or members shall, upon the request of any party, be named, after such consultation, by the Secretary-General of the United Nations. Any vacancy arising after the appointment shall be filled in the same manner as provided for the initial selection.

3. If the parties to the dispute fall into more than two opposing groups, the arbitral commission shall, at the request of any of the parties, be appointed by the Secretary-General of the United Nations, after consultation with the President of the International Court of Justice and the Director-General of the United Nations Food and Agriculture Organization, from amongst well qualified persons specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the appointment shall be filled in the same manner as provided for the initial selection.

4. Except as herein provided the arbitral commission shall determine its own procedure. It shall also determine how the costs and expenses shall be divided between the parties.

5. The arbitral commission shall in all cases be constituted within three months from the date of the original request and shall render its decision within a further period of five months unless it decides, in case of necessity, to extend that time limit.

Article 58

1. The arbitral commission shall, in the case of measures unilaterally adopted by coastal States, apply the criteria listed in paragraph 2 of article 55. In other cases it shall apply these criteria according to the circumstances of each case.

2. The arbitral commission may decide that pending its award the measures in dispute shall not be applied.

Article 59

The decisions of the arbitral commission shall be binding on the States concerned. If the decision is accompanied by any recommendations, they shall receive the greatest possible consideration.

Fisheries conducted by means of equipment embedded in the floor of the sea

Article 60

The regulation of fisheries conducted by means of equipment embedded in the floor of the sea in areas of the high seas adjacent to the territorial sea of a State, may be undertaken by that State where such fisheries have long been maintained and conducted by its nationals, provided that non-nationals are permitted to participate in such activities on an equal footing with nationals. Such regulations will not, however, affect the general status of the areas as high seas.

Sub-section C. Submarine cables and pipelines

Article 61

1. All States shall be entitled to lay telegraph, telephone or high-voltage power cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the ex-

ploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

Article 62

Every State shall take the necessary legislative measures to provide that the breaking or injury of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine high-voltage power cable or pipeline, shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 63

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost.

Article 64

Every State shall regulate trawling so as to ensure that all the fishing gear used shall be so constructed and maintained as to reduce to the minimum any danger of fouling submarine cables or pipelines.

Article 65

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

Section II. Contiguous zone

Article 66

1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to

(*a*) Prevent infringement of its customs, fiscal or sanitary regulations within its territory or territorial sea;

(*b*) Punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

Section III. Continental shelf

Article 67

For the purposes of these articles, the term "continental shelf" is used as referring to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres (approximately 100 fathoms) or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas.

Article 68

The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring and exploiting its natural resources.

Article 69

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

Article 70

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables on the continental shelf.

Article 71

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea.

2. Subject to the provisions of paragraphs 1 and 5 of this article, the coastal State is entitled to construct and maintain on the continental shelf installations necessary for the exploration and exploitation of its natural resources, and to establish safety zones at a reasonable distance around such installations and take in those zones measures necessary for their protection.

3. Such installations, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

4. Due notice must be given of any such installations constructed, and permanent means for giving warning of their presence must be maintained.

5. Neither the installations themselves, nor the said safety zones around them may be established in narrow channels or where interference may be caused in recognized sea lanes essential to international navigation.

Article 72

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite to each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the baselines from which the breadth of the territorial sea of each country is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the baselines from which the breadth of the territorial sea of each of the two countries is measured.

Article 73

Any disputes that may arise between States concerning the interpretation or application of articles 67-72

shall be submitted to the International Court of Justice at the request of any of the parties, unless they agree on another method of peaceful settlement.

Convention on the Territorial Sea and the Contiguous Zone, April 29, 1958*

* 15 U.S.T. 1606; T.I.A.S. 5639; 516 U.N.T.S. 206.

No. 7477. CONVENTION[1] ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE. DONE AT GENEVA, ON 29 APRIL 1958

The States Parties to this Convention

Have agreed as follows :

PART I

TERRITORIAL SEA

SECTION I. GENERAL

Article 1

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.

[1] In accordance with paragraph 1 of article 29, the Convention came into force on 10 September 1964, the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession. Following is a list of States on behalf of which the instruments of ratification or accession (*a*) were deposited with the Secretary-General of the United Nations, showing the respective dates of deposit :

United Kingdom of Great Britain and Northern Ireland	14 March	1960
Cambodia	18 March	1960 (*a*)
Haiti	29 March	1960
Union of Soviet Socialist Republics	22 November	1960
Malaysia	21 December	1960 (*a*)
Ukrainian Soviet Socialist Republic	12 January	1961
Byelorussian Soviet Socialist Republic	27 February	1961
United States of America	12 April	1961
Senegal	25 April	1961 (*a*)
*Nigeria	26 June	1961
Venezuela	15 August	1961
Czechoslovakia	31 August	1961
Israel	6 September	1961
Hungary	6 December	1961
Romania	12 December	1961
*Sierra Leone	13 March	1962
Madagascar	31 July	1962 (*a*)
Bulgaria	31 August	1962
Portugal	8 January	1963
South Africa	9 April	1963 (*a*)
Australia	14 May	1963
Dominican Republic	11 August	1964
Uganda	14 September	1964 (*a*)

For declarations and reservations made upon signature, see list of signatures and for those made upon ratification, as well as for objections to certain declarations and reservations, see pp. 277 to 282 of this volume.

* By communications received on 26 June 1961 and 13 March 1962, respectively, the Governments of Nigeria and Sierra Leone informed the Secretary-General that they consider themselves bound by the ratification by the Government of the United Kingdom of Great Britain and Northern Ireland of the Convention on the Territorial Sea and the Contiguous Zone, done at Geneva on 29 April 1958, which was effective for their territories prior to the attainment of independence.

2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article 2

The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

SECTION II. LIMITS OF THE TERRITORIAL SEA

Article 3

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 4

1. In localities where the coast line is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.

4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

Article 5

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article 4 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 14 to 23, shall exist in those waters.

Article 6

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 7

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water areas of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds twenty-four miles, a straight baseline of twenty-four miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions shall not apply to so-called " historic " bays, or in any case where the straight baseline system provided for in article 4 is applied.

Article 8

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Article 9

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

Article 10

1. An island is a naturally-formed area of land, surrounded by water, which is above water at high-tide.

2. The territorial sea of an island is measured in accordance with the provisions of these articles.

Article 11

1. A low-tide elevation is a naturally-formed area of land which is surrounded by and above water at low-tide but submerged at high-tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 12

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

Article 13

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

SECTION III. RIGHT OF INNOCENT PASSAGE

SUB-SECTION A. RULES APPLICABLE TO ALL SHIPS

Article 14

1. Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

4. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.

6. Submarines are required to navigate on the surface and to show their flag.

Article 15

1. The coastal State must not hamper innocent passage through the territorial sea.

2. The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

Article 16

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters is subject.

3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

4. There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.

Article 17

Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

SUB-SECTION B. RULES APPLICABLE TO MERCHANT SHIPS

Article 18

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

Article 19

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(*a*) If the consequences of the crime extend to the coastal State; or

(*b*) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(*c*) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(*d*) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 20

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

SUB-SECTION C. RULES APPLICABLE TO GOVERNMENT SHIPS OTHER THAN WARSHIPS

Article 21

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

Article 22

1. The rules contained in sub-section A and in article 18 shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

SUB-SECTION D. RULE APPLICABLE TO WARSHIPS

Article 23

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

PART II

CONTIGUOUS ZONE

Article 24

1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to:

(*a*) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

(*b*) Punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the

contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

PART III

FINAL ARTICLES

Article 25

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.

Article 26

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 27

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 28

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 26. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 29

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 30

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Con-

vention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 31

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 26:

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 26, 27 and 28;

(*b*) Of the date on which this Convention will come into force, in accordance with article 29:

(*c*) Of requests for revision in accordance with article 30.

Article 32

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 26.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

Convention on the Continental Shelf, April 29, 1958*

* 15 U.S.T. 471; T.I.A.S. 5578; 499 U.N.T.S. 312.

No. 7302. CONVENTION[1] ON THE CONTINENTAL SHELF. DONE AT GENEVA, ON 29 APRIL 1958

The States Parties to this Convention

Have agreed as follows :

Article 1

For the purpose of these articles, the term " continental shelf " is used as referring (*a*) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (*b*) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Article 2

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

[1] In accordance with article 11 (1), the Convention came into force on 10 June 1964, the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession. The following States have deposited their instruments of ratification or accession (*a*) on the dates indicated :

Australia	14 May	1963	Senegal	25 April	1961 (*a*)
Bulgaria	31 August	1962 (*a*)	South Africa	9 April	1963 (*a*)
Byelorussian Soviet Socialist Republic	27 February	1961	Ukrainian Soviet Socialist Republic	12 January	1961
Cambodia	18 March	1960 (*a*)	Union of Soviet Socialist Republics	22 November	1960
Colombia	8 January	1962	United Kingdom of Great Britain and Northern Ireland	11 May	1964
Czechoslovakia	31 August	1961	United States of America	12 April	1961
Denmark	12 June	1963	Venezuela (with express reservation in respect of article 6 of the Convention)	15 August	1961
Guatemala	27 November	1961			
Haiti	29 March	1960			
Israel	6 September	1961			
Madagascar	31 July	1962 (*a*)			
Malaysia	21 December	1960 (*a*)			
Poland	29 June	1962			
Portugal	8 January	1963			
Romania	12 December	1961 (*a*)			

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

Article 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

Article 4

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipe lines on the continental shelf.

Article 5

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State 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.

Article 6

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

Article 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

Article 8

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 9

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 11

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 12

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.

2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 13

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention

may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8 :

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10;

(*b*) Of the date on which this Convention will come into force, in accordance with article 11;

(*c*) Of requests for revision in accordance with article 13;

(*d*) Of reservations to this Convention, in accordance with article 12.

Article 15

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

Convention on the High Seas, April 29, 1958*

* 13 U.S.T. 2312; T.I.A.S. 5200; 450 U.N.T.S. 82.

CONVENTION[1] ON THE HIGH SEAS. DONE AT GENEVA, ON 29 APRIL 1958

The States Parties to this Convention,

Desiring to codify the rules of international law relating to the high seas,

Recognizing that the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958, adopted the following provisions as generally declaratory of established principles of international law,

Have agreed as follows :

Article 1

The term " high seas " means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

Article 2

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is ex-

[1] In accordance with article 34, the Convention came into force on 30 September 1962, the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession. Following is a list of States on behalf of which the instruments of ratification or accession (*a*) were deposited with the Secretary-General of the United Nations, showing the respective dates of deposit :

Afghanistan	28 April	1959	*Nigeria	26 June	1961
United Kingdom of Great Britain and Northern Ireland	14 March	1960	Indonesia	10 August	1961
Cambodia	18 March	1960 (*a*)	Venezuela	15 August	1961
Haiti	29 March	1960	Czechoslovakia	31 August	1961
Union of Soviet Socialist Republics	22 November	1960	Israel	6 September	1961
Federation of Malaya	21 December	1960 (*a*)	Guatemala	27 November	1961
Ukrainian Soviet Socialist Republic	12 January	1961	Hungary	6 December	1961
Byelorussian Soviet Socialist Republic	27 February	1961	Romania	12 December	1961
United States of America	12 April	1961	*Sierra Leone	13 March	1962
Senegal	25 April	1961 (*a*)	Poland	29 June	1962
			Madagascar	31 July	1962 (*a*)
			Bulgaria	31 August	1962
			Central African Republic	15 October	1962 (*a*)
			Nepal	28 December	1962
			Portugal	8 January	1963

For declarations and reservations made upon signature, see list of signatures and for those made upon ratification, as well as for objections to certain declarations and reservations, see pp. 162 to 167.

* By communications received on 26 June 1961 and 13 March 1962, respectively, the Governments of Nigeria and Sierra Leone have informed the Secretary-General that they consider themselves bound by the ratification by the Government of the United Kingdom of Great Britain and Northern Ireland of the Convention of the High Seas, done at Geneva on 29 April 1958, which was effective for their territories prior to the attainment of independence.

ercised under the conditions laid down by these articles and by the other rules of international law. It comprises, *inter alia*, both for coastal and non-coastal States :

(1) Freedom of navigation;
(2) Freedom of fishing;
(3) Freedom to lay submarine cables and pipelines;
(4) Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

Article 3

1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter, and in conformity with existing international conventions, accord :

(*a*) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and

(*b*) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to sea-ports and the use of such ports.

2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions.

Article 4

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

Article 5

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 6

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 7

The provisions of the preceding articles do not prejudice the question of ships employed on the official service of an inter-governmental organization flying the flag of the organization.

Article 8

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

2. For the purposes of these articles, the term " warship " means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

Article 9

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 10

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard *inter alia* to :

(*a*) The use of signals, the maintenance of communications and the prevention of collisions;

(*b*) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments;

(*c*) The construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

Article 11

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 12

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,

(*a*) To render assistance to any person found at sea in danger of being lost;

(*b*) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(*c*) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and—where circumstances so require—by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Article 13

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

Article 14

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 15

Piracy consists of any of the following acts:

(1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(*a*) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(*b*) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or sub-paragraph 2 of this article.

Article 16

The acts of piracy, as defined in article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

Article 17

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 18

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 19

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 20

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

Article 21

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

Article 22

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

(*a*) That the ship is engaged in piracy; or

(*b*) That the ship is engaged in the slave trade; or

(*c*) That though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in sub-paragraphs (*a*), (*b*) and (*c*) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

Article 23

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 24 of the Convention on the Territorial Sea and the Contiguous Zone, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft:

(*a*) The provisions of paragraph 1 to 3 of this article shall apply *mutatis mutandis*;

(*b*) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both

ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an enquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the high seas in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

Article 24

Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation and exploration of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

Article 25

1. Every State shall take measures to prevent pollution of the seas from the dumping of radio-active waste, taking into account any standards and regulations which may be formulated by the competent international organizations.

2. All States shall co-operate with the competent international organizations in taking measures for the prevention of pollution of the seas or air space above, resulting from any activities with radio-active materials or other harmful agents.

Article 26

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

Article 27

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 28

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

Article 29

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

Article 30

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.

Article 31

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 32

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 33

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 31. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 34

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 35

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 36

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 31 :

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 31, 32 and 33;

(*b*) Of the date on which this Convention will come into force, in accordance with article 34;

(*c*) Of requests for revision in accordance with article 35.

Article 37

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the

Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 31.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

Convention on Fishing and Conservation of the Living Resources of the High Seas, April 29, 1985*

* 17 U.S.T. 138; T.I.A.S. 5969; 559 U.N.T.S. 286.

No. 8164. CONVENTION[1] ON FISHING AND CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS. DONE AT GENEVA, ON 29 APRIL 1958

The States Parties to this Convention,

Considering that the development of modern techniques for the exploitation of the living resources of the sea, increasing man's ability to meet the need of the world's expanding population for food, has exposed some of these resources to the danger of being over-exploited,

Considering also that the nature of the problems involved in the conservation of the living resources of the high seas is such that there is a clear necessity that they be solved, whenever possible, on the basis of international co-operation through the concerted action of all the States concerned,

Have agreed as follows :

Article 1

1. All States have the right for their nationals to engage in fishing on the high seas, subject (*a*) to their treaty obligations, (*b*) to the interests and rights of

[1] In accordance with article 18, paragraph 1, the Convention came into force on 20 March 1966, that is to say, on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession. The following States have deposited their instruments of ratification or accession (*a*) on the dates indicated :

United Kingdom of Great Britain and Northern Ireland*	14 March	1960
Cambodia	18 March	1960 (*a*)
Haiti	29 March	1960
Malaysia	21 December	1960 (*a*)
United States of America**	12 April	1961
Senegal	25 April	1961 (*a*)
Nigeria	26 June	1961
Sierra Leone	13 March	1962
Madagascar	31 July	1962 (*a*)
Colombia	3 January	1963
Portugal	8 January	1963
South Africa	9 April	1963 (*a*)
Australia	14 May	1963
Venezuela	10 July	1963
Jamaica	16 April	1964
Dominican Republic	11 August	1964
Uganda	14 September	1964 (*a*)
Finland	16 February	1965
Upper Volta	4 October	1965 (*a*)
Malawi	3 November	1965 (*a*)
Yugoslavia	28 January	1966
Netherlands	18 February	1966

* With the following declaration :

" In depositing their instrument of ratification... Her Majesty's Government in the United Kingdom of Great Britain and Northern Ireland declare that, save as may be stated in any further and separate notices that may hereafter be given, ratification of this Convention on behalf of the United Kingdom does not extend to the States in the Persian Gulf enjoying British protection. Multilateral conventions to which the United Kingdom becomes a party are not extended to these States until such time as an extension is requested by the Ruler of the State concerned. "

** The instrument of ratification of the Government of the United States of America specifies that the ratification is subject to the following understanding : " that such ratification shall not be construed to impair the applicability of the principle of ' abstention ', as defined in paragraph A.1 of the documents of record in the proceedings of the Conference above referred to [United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958], identified as A/CONF. 13/C.3/L.69, 8 April 1958 ".

coastal States as provided for in this Convention, and (*c*) to the provisions contained in the following articles concerning conservation of the living resources of the high seas.

2. All States have the duty to adopt, or to co-operate with other States in adopting, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

Article 2

As employed in this Convention, the expression " conservation of the living resources of the high seas " means the aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply to food and other marine products. Conservation programmes should be formulated with a view to securing in the first place a supply of food for human consumption.

Article 3

A State whose nationals are engaged in fishing any stock or stocks of fish or other living marine resources in any area of the high seas where the nationals of other States are not thus engaged shall adopt, for its own nationals, measures in that area when necessary for the purpose of the conservation of the living resources affected.

Article 4

1. If the nationals of two or more States are engaged in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, these States shall, at the request of any of them, enter into negotiations with a view to prescribing by agreement for their nationals the necessary measures for the conservation of the living resources affected.

2. If the States concerned do not reach agreement within twelve months, any of the parties may initiate the procedure contemplated by article 9.

Article 5

1. If, subsequent to the adoption of the measures referred to in articles 3 and 4, nationals of other States engage in fishing the same stock or stocks of fish or other living marine resources in any area or areas of the high seas, the other States shall apply the measures, which shall not be discriminatory in form or in fact, to their own nationals not later than seven months after the date on which the measures shall have been notified to the Director-General of the Food and Agriculture Organization of the United Nations. The Director-General shall

notify such measures to any State which so requests and, in any case, to any State specified by the State initiating the measure.

2. If these other States do not accept the measures so adopted and if no agreement can be reached within twelve months, any of the interested parties may initiate the procedure contemplated by article 9. Subject to paragraph 2 of article 10, the measures adopted shall remain obligatory pending the decision of the special commission.

Article 6

1. A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea.

2. A coastal State is entitled to take part on an equal footing in any system of research and regulation for purposes of conservation of the living resources of the high seas in that area, even though its nationals do not carry on fishing there.

3. A state whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a State shall, at the request of that coastal State, enter into negotiations with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

4. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall not enforce conservation measures in that area which are opposed to those which have been adopted by the coastal State, but may enter into negotiations with the coastal State with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.

5. If the States concerned do not reach agreement with respect to conservation measures within twelve months, any of the parties may initiate the procedure contemplated by article 9.

Article 7

1. Having regard to the provisions of paragraph 1 of article 6, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months.

2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled:

(*a*) That there is a need for urgent application of conservation measures in the light of the existing knowledge of the fishery;

(*b*) That the measures adopted are based on appropriate scientific findings;

(*c*) That such measures do not discriminate in form or in fact against foreign fishermen.

3. These measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Convention, of any disagreement as to their validity.

4. If the measures are not accepted by the other States concerned, any of the parties may initiate the procedure contemplated by article 9. Subject to paragraph 2 of article 10, the measures adopted shall remain obligatory pending the decision of the special commission.

5. The principles of geographical demarcation as defined in article 12 of the Convention on the Territorial Sea and the Contiguous Zone[1] shall be adopted when coasts of different States are involved.

Article 8

1. Any State which, even if its nationals are not engaged in fishing in an area of the high seas not adjacent to its coast, has a special interest in the conservation of the living resources of the high seas in that area, may request the State or States whose nationals are engaged in fishing there to take the necessary measures of conservation under articles 3 and 4 respectively, at the same time mentioning the scientific reasons which in its opinion make such measures necessary, and indicating its special interest.

2. If no agreement is reached within twelve months, such State may initiate the procedure contemplated by article 9.

Article 9

1. Any dispute which may arise between States under articles 4, 5, 6, 7 and 8 shall, at the request of any of the parties, be submitted for settlement to a special commission of five members, unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations.

2. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within three months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon the request of any State party,

[1] United Nations, *Treaty Series*, Vol. 516, p. 205.

be named by the Secretary-General of the United Nations, within a further three-month period, in consultation with the States in dispute and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

3. Any State party to proceedings under these articles shall have the right to name one of its nationals to the special commission, with the right to participate fully in the proceedings on the same footing as a member of the commission, but without the right to vote or to take part in the writing of the commission's decision.

4. The commission shall determine its own procedure, assuring each party to the proceedings a full opportunity to be heard and to present its case. It shall also determine how the costs and expenses shall be divided between the parties to the dispute, failing agreement by the parties on this matter.

5. The special commission shall render its decision within a period of five months from the time it is appointed unless it decides, in case of necessity, to extend the time limit for a period not exceeding three months.

6. The special commission shall, in reaching its decisions, adhere to these articles and to any special agreements between the disputing parties regarding settlement of the dispute.

7. Decisions of the commission shall be by majority vote.

Article 10

1. The special commission shall, in disputes arising under article 7, apply the criteria listed in paragraph 2 of that article. In disputes under articles 4, 5, 6 and 8, the commission shall apply the following criteria, according to the issues involved in the dispute :

(*a*) Common to the determination of disputes arising under articles 4, 5 and 6 are the requirements :

(i) That scientific findings demonstrate the necessity of conservation measures;

(ii) That the specific measures are based on scientific findings and are practicable; and

(iii) That the measures do not discriminate, in form or in fact, against fishermen of other States;

(*b*) Applicable to the determination of disputes arising under article 8 is the requirement that scientific findings demonstrate the necessity for conservation measures, or that the conservation programme is adequate, as the case may be.

2. The special commission may decide that pending its award the measures in dispute shall not be applied, provided that, in the case of disputes under article 7, the measures shall only be suspended when it is apparent to the commission on the basis of *prima facie* evidence that the need for the urgent application of such measures does not exist.

Article 11

The decisions of the special commission shall be binding on the States concerned and the provisions of paragraph 2 of Article 94 of the Charter of the United Nations shall be applicable to those decisions. If the decisions are accompanied by any recommendations, they shall receive the greatest possible consideration.

Article 12

1. If the factual basis of the award of the special commission is altered by substantial changes in the conditions of the stock or stocks of fish or other living marine resources or in methods of fishing, any of the States concerned may request the other States to enter into negotiations with a view to prescribing by agreement the necessary modifications in the measures of conservation.

2. If no agreement is reached within a reasonable period of time, any of the States concerned may again resort to the procedure contemplated by article 9 provided that at least two years have elapsed from the original award.

Article 13

1. The regulation of fisheries conducted by means of equipment embedded in the floor of the sea in areas of the high seas adjacent to the territorial sea of a State may be undertaken by that State where such fisheries have long been maintained and conducted by its nationals, provided that non-nationals are permitted to participate in such activities on an equal footing with nationals except in areas where such fisheries have by long usage been exclusively enjoyed by such nationals. Such regulations will not, however, affect the general status of the areas as high seas.

2. In this article, the expression " fisheries conducted by means of equipment embedded in the floor of the sea " means those fisheries using gear with supporting members embedded in the sea floor, constructed on a site and left there to operate permanently or, if removed, restored each season on the same site.

Article 14

In articles 1, 3, 4, 5, 6 and 8, the term " nationals " means fishing boats or craft of any size having the nationality of the State concerned, according to the law of that State, irrespective of the nationality of the members of their crews.

Article 15

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 16

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 17

This Convention shall be open for accession by any States belonging to any of the categories mentioned in article 15. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 19

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 6, 7, 9, 10, 11 and 12.

2. Any contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 20

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any contracting party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article 21

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 15:

(*a*) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 15, 16 and 17;

(*b*) Of the date on which this Convention will come into force, in accordance with article 18;

(*c*) Of requests for revision in accordance with article 20;

(*d*) Of reservations to this Convention, in accordance with article 19.

Article 22

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 15.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

Optional Protocol Concerning the Compulsory Settlement of Disputes, April 29, 1958*

* 450 U.N.T.S. 170

No. 6466. OPTIONAL PROTOCOL OF SIGNATURE[1] CONCERNING THE COMPULSORY SETTLEMENT OF DISPUTES. ADOPTED BY THE UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, HELD AT GENEVA FROM 24 FEBRUARY TO 27 APRIL 1958, AND OPENED FOR SIGNATURE ON 29 APRIL 1958

The States Parties to this Protocol and to any one or more of the Conventions on the Law of the Sea adopted by the United Nations Conference on the Law of the Sea held at Geneva from 24 February to 27 April 1958,

Expressing their wish to resort, in all matters concerning them in respect of any dispute arising out of the interpretation or application of any article of any Convention on the Law of the Sea of 29 April 1958, to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement is provided in the Convention or has been agreed upon by the Parties within a reasonable period,

Have agreed as follows :

Article I

Disputes arising out of the interpretation or application of any Convention on the Law of the Sea shall lie within the compulsory jurisdiction of the International Court of Justice, and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to this Protocol.

Article II

This undertaking relates to all the provisions of any Convention on the Law of the Sea except, in the Convention on Fishing and Conservation of the Living Resources of the High Seas, articles 4, 5, 6, 7 and 8, to which articles 9, 10, 11 and 12 of that Convention remain applicable.

[1] Came into force on 30 September 1962, the date of entry into force of the Convention on the High Seas (see p. 11 of this volume), between the following States parties to the said Convention which have signed the Protocol without reservation as to ratification or have deposited an instrument of ratification (*r*) thereof on the dates indicated :

Federation of Malaya	1 May	1961
Haiti	29 March	1960 (*r*)
Madagascar	10 August	1962
United Kingdom of Great Britain and Northern Ireland	9 September	1958

and on 27 January 1963 as between those States and Nepal for which the Convention on the High Seas came into force on that date and on behalf of which the Optional Protocol was signed without reservation as to ratification on 29 April 1958.

Furthermore, the instruments of ratification of the said Convention and Protocol by Portugal were deposited on 8 January 1963, to take effect on 7 February 1963.

Article III

The Parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either Party to this Protocol may bring the dispute before the Court by an application.

Article IV

1. Within the same period of two months, the Parties to this Protocol may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

Article V

This Protocol shall remain open for signature by all States who become Parties to any Convention on the Law of the Sea adopted by the United Nations Conference on the Law of the Sea and is subject to ratification, where necessary, according to the constitutional requirements of the signatory States.

Article VI

The Secretary-General of the United Nations shall inform all States who become Parties to any Convention on the Law of the Sea of signatures to this Protocol and of the deposit of instruments of ratification in accordance with article V.

Article VII

The original of this Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article V.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

5. The Second United Nations Conference on the Law of the Sea

Proposal by Canada and the United States,
April 22, 1960*

* UNCLOS II Official Records (Annexes and Final Act) 173, U.N. Doc. A/CONF.19/L.11 (1960).

DOCUMENT A/CONF.19/L.11

Canada and United States of America: proposal

[*Original text: English*]
[*22 April 1960*]

1. A State is entitled to fix the breadth of its territorial sea up to a maximum of six nautical miles measured from the applicable baseline. For the purpose of the present Convention the term mile means a sea mile (1,852 metres) reckoned at sixty to one degree of latitude.

2. A State is entitled to establish a fishing zone in the high seas contiguous to its territorial sea extending to a maximum limit of twelve nautical miles from the baseline from which the breadth of its territorial sea is measured, in which it shall have the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea.

3. Any State whose vessels have made a practice of fishing in the outer six miles of the fishing zone established by the coastal State, in accordance with paragraph 2 above, for the period of five years immediately preceding 1 January 1958, may continue to do so for a period of ten years from 31 October 1960.

4. The provisions of articles 9 and 11 of the Convention on Fishing and Conservation of the Living Resources of the High Seas, adopted at Geneva on 27 April 1958, shall apply *mutatis mutandis* to the settlement of any dispute arising out of the application of the foregoing paragraph.

5. The provisions of the present Convention shall not affect conventions or other international agreements already in force, as between States parties to them, or preclude the conclusion of bilateral or multilateral agreements for the purpose of regulating matters of fishing.

Final Act of the Conference, April 26, 1960*

* UNCLOS II Official Records (Annexes and Final Act) 175, U.N. Doc. A/CONF.19/L.15 (1960).

Final Act of the Second United Nations Conference on the Law of the Sea

DOCUMENT A/CONF.19/L.15 †

[Original text: English]
[26 April 1960]

1. The United Nations Conference on the Law of the Sea, which met at the European Office of the United Nations at Geneva from 24 February to 27 April 1958, adopted a resolution on 27 April 1958 in which it requested the General Assembly of the United Nations to study at its thirteenth session the advisability of convening a second international conference of plenipotentiaries for further consideration of the questions left unsettled at that Conference.[18] The General Assembly of the United Nations, by resolution 1307 (XIII), adopted on 10 December 1958, decided that a second international conference of plenipotentiaries on the law of the sea should be called for the purpose of considering further the questions of the breadth of the territorial sea and fishery limits.

2. The Second United Nations Conference on the Law of the Sea accordingly met at the European Office of the United Nations at Geneva from 17 March to 26 April 1960.

3. The Governments of the following eighty-eight States were represented at the Conference: Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroun, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, France, Federal Republic of Germany, Ghana, Greece, Guatemala, Guinea, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Jordan, Republic of Korea, Laos, Lebanon, Liberia, Libya, Luxembourg, Federation of Malaya, Mexico, Monaco, Morocco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, San Marino, Saudi Arabia, Spain, Sudan, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Republic of Viet-Nam, Yemen, Yugoslavia.

4. At the invitation of the General Assembly, the following specialized agencies were represented at the Conference by observers:

International Labour Organisation;
Food and Agriculture Organization of the United Nations;
International Civil Aviation Organization;
World Health Organization;
International Telecommunication Union;
World Meteorological Organization;
Inter-governmental Maritime Consultative Organization.

5. At the invitation of the General Assembly, the International Atomic Energy Agency and the following intergovernmental organizations were also represented by observers at the Conference:

Conseil Général des Pêches pour la Méditerranée;
Inter-American Tropical Tuna Commission;
International Institute for the Unification of Private Law;
League of Arab States;
Organization for European Economic Co-operation;
Permanent Conference for the Exploitation and Conservation of the Maritime Resources of the South Pacific;

6. The Conference elected His Royal Highness Prince Wan Waithayakon Krommun Naradhip Bongsprabandh (Thailand) as President.

7. The Conference elected as Vice-Presidents Albania, Argentina, Canada, China, France, Ghana, Guatemala, Iran, Italy, Mexico, Norway, Poland, Switzerland, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

8. The following committees were set up:

General Committee

Chairman: The President of the Conference.

Committee of the Whole:

Chairman: Mr. José Antonio Correa (Ecuador)
Vice-Chairman: Mr. Max Sörensen (Denmark)
Rapporteur: Mr. Edwin Glaser (Romania)

Credentials Committee

Chairman: Mr. Nathan Barnes (Liberia)

9. The Secretary-General of the United Nations was represented by Mr. C. A. Stavropoulos, the Legal Counsel. Mr. Yuen-li Liang, Director of the Codification Division of the Office of the Legal Affairs of the United Nations, was appointed Executive Secretary.

10. The General Assembly, by its resolution convening the Conference, referred to the Conference for its information the records of the United Nations Conference on the Law of the Sea held in 1958.[19]

11. The Conference also had before it certain documents submitted by the Secreatriat of the United Nations. These included a provisional agenda (A/CONF.19/1), provisional rules of procedure (A/CONF.19/2) and a memorandum on the method of work and procedures of the Conference (A/CONF.19/3). The Conference took note of the memorandum on the method of work and procedures of the Conference and adopted the provisional agenda; the rules of procedure, as amended by the Conference (A/CONF.19/7), were also adopted.

12. The Conference referred to the Committee of the Whole the two substantive items on its agenda entitled: "Consideration of the questions of the breadth of the territorial sea and fishery limits in accordance with resolution 1307 (XIII) adopted by the General Assembly on 10 December 1958" and "Adoption of conventions or other instruments regarding the matters considered and of the Final Act of the Conference." The Committee of the Whole held 28 meetings from 21 March to 13 April 1960, and on 14 April 1960 submitted its report (A/CONF.19/L.4) to the Conference.

† Incorporating document A/CONF.19/L.15/Corr.1.

[18] *Ibid.*, document A/CONF.13/L.56, resolution VIII.

[19] *Official Records of the United Nations Conference on the Law of the Sea*, vol. I to VII.

13. The Conference adopted only the two resolutions set out in the annex.

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE AT GENEVA this twenty-seventh day of April, one thousand nine hundred and sixty, in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. The original texts shall be deposited in the archives of the United Nations Secretariat.

Annex

I

The Second United Nations Conference on the Law of the Sea,

Considering that, whatever the result of the Conference, its records will be of the utmost value for the correct interpretation of its work;

Recalling the statement made by the representative of the Secretary-General at the 2nd plenary meeting of the Conference concerning the possibility and cost of publishing the complete text of the statements made at the Conference in the original in a trilingual record, produced from the sound recordings and the texts of speeches as supplied, in most cases, by delegations;

Recommends to the General Assembly of the United Nations that at its fifteenth session it approve the necessary budget appropriations for the publication, in the form described above, of a complete verbatim record of the discussions at the Second United Nations Conference on the Law of the Sea.

8th plenary meeting,
21 April 1960.

II

The Second United Nations Conference on the Law of the Sea,

Having considered the question of fishery limits,

Recognizing that the development of international law affecting fishing may lead to changes in the practices and requirements of many States,

Recognizing further that economic development and the standard of living in many coastal States require increased international assistance to improve and expand their fisheries and fishing industries, which in many cases are handicapped by a lack of modern equipment, technical knowledge, and capital,

1. *Expresses the view* that technical and other assistance should be available to help States in making adjustments to their coastal and distant-waters fishing in the light of new developments in international law and practices;

2. *Draws the attention* of Governments participating in the Conference to the facilities for assistance already available through the United Nations and specialized agencies;

3. *Urges* the appropriate organs of the United Nations and the specialized agencies, and in particular the Food and Agriculture Organization of the United Nations, the Technical Assistance Board, and the United Nations Special Fund to give sympathetic and urgent consideration to any requests for assistance made by member Governments based on the new developments, and also urges them to consider, jointly or separately, further comprehensive studies and programmes of technical and material assistance;

4. *Invites* the Economic and Social Council to inform the General Assembly through its annual reports, of the action taken in response to this resolution;

5. *Requests* the Secretary-General of the United Nations to bring this resolution to the attention of the appropriate organs of the United Nations and the specialized agencies for suitable action at the earliest practicable time.

13th plenary meeting,
26 April 1960.

6. Developments Leading to the Third United Nations Conference on the Law of the Sea

Statement by Ambassador Arvid Pardo,
U.N. General Assembly,
November 1, 1967*

* Committee I, U.N. General Assembly, 22 U.N. GAOR (1515th mtg.), U.N. Doc. A/C.1/PV. 1515-16 (1967).

United Nations
GENERAL ASSEMBLY
TWENTY-SECOND SESSION
Official Records

FIRST COMMITTEE, 1515th MEETING

Wednesday, 1 November 1967 at 10.30 a.m.

NEW YORK

CONTENTS

Chairman: Mr. Ismail FAHMY (United Arab Republic).

AGENDA ITEM 92

Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind (A/6695; A/C.1/952)

GENERAL DEBATE

1. The CHAIRMAN: As the Committee agreed yesterday [1514th meeting, para. 140], we shall start today consideration of item 92 of the agenda, dealing with the sea-bed and the ocean floor. Members of the Committee may have noticed that a new document has been circulated by the Secretary-General under the symbol A/C.1/952.

2. The first speaker this morning is the representative of Malta.

3. Mr. PARDO (Malta): May I first of all, Mr. Chairman, express my deep appreciation to you for permitting me to introduce at such an early date the item submitted by my delegation entitled "Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind".

4. I understand that the fact that Malta has raised the question of the sea-bed and of the ocean floor in the General Assembly has aroused some astonishment, if not suspicion, in the minds of some delegations, and even among legislators in some countries. A member of the House of Representatives of the United States recently expressed the feelings of many in the following words:

> "The United States as a member—and I might add paying member—of the United Nations is entitled to know:
>
> "First, why did the Maltese Ambassador, Arvid Pardo, make this premature proposal?
>
> "Second, who put the Maltese Government up to the proposal? Are they, perhaps, the sounding board for the British?
>
> "Third, and, most of all, why the rush?
>
> "It is my conviction that there is no rush; it is my conviction that the presently agreed to international law is reasonable and substantive. There is little reason to set up additional unknowns and additional legal barriers, which will impair and deter investment and exploration in the depths of the sea even before capabilities and resources are developed." 1/

We feel that we owe a brief explanation to those in this room who may share the sentiments so frankly expressed by the Congressman.

5. The Maltese islands are situated in the centre of the Mediterranean. We are naturally vitally interested in the sea which surrounds us and through which we live and breathe. We have been following closely for some time developments in the field of oceanography and deep-sea capability and have been impressed by the potential benefits both to our country and to mankind if technological progress takes place in a peaceful atmosphere and within a just legal framework and, on the other hand, by the truly incalculable dangers for mankind as a whole were the sea-bed and ocean floor beyond present national jurisdiction to be progressively and competitively appropriated, exploited and used for military purposes by those who possess the required technology. Hence our request for United Nations consideration of the question. Our proposal was formulated entirely without the benefit of advice from other countries and I can categorically state that we are not a sounding-board for any State, and that nobody "put the Maltese Government up to it".

6. My Government decided to take action at this session of the General Assembly because rapidly developing technology makes possible the exploration, occupation and exploitation of the world's sea-beds and much of its ocean floor. We are convinced that in accordance with historical precedent this capability will lead, indeed is already leading, to appropriation for national use of these areas, with consequences for all our countries that may be incalculable. Appropriation for national use of the sea-bed and the ocean floor underlying the seas beyond the limits of present national jurisdiction may be inevitable, but we believe that Governments might appreciate an opportunity to

1/ United States Congressional Record, Washington, D.C., 1967, vol. 113, p. H 12681.

give careful consideration to the issues involved and to examine whether it might not be wise to establish some form of international jurisdiction and control over the sea-bed and the ocean floor underlying the seas beyond the limits of present national jurisdiction, before events take an irreversible course.

7. The dark oceans were the womb of life: from the protecting oceans life emerged. We still bear in our bodies—in our blood, in the salty bitterness of our tears—the marks of this remote past. Retracing the past, man, the present dominator of the emerged earth, is now returning to the ocean depths. His penetration of the deep could mark the beginning of the end for man, and indeed for life as we know it on this earth: it could also be a unique opportunity to lay solid foundations for a peaceful and increasingly prosperous future for all peoples.

8. The air is the atmosphere of our planet: the seas and the oceans are the atmosphere of the submerged land which constitutes more than five-sevenths of the area of this earth. The sea has been used as a means of communication in peace and war for thousands of years: its living resources, plants and fish have long been exploited; and around the use of the surface and upper layers of the seas a complex body of international law has developed; but the depths of the oceans and the ocean floor were of little interest until little more than a hundred years ago when the question of laying a transatlantic cable came to the fore. It was at that time that the first scientific deep-sea surveys were undertaken. Subsequently, the invention of the echo-sounder enabled scientists to obtain much more precise and detailed information on the shape of the bottom of the seas and oceans than had been possible by using the previous method of the weighted line. Ocean floor photography and deep submergence vessels with near-bottom capability now enable us to acquire an ever-increasing store of knowledge about the sea-bed and the abyss, although we must remember that vast areas still remain to be mapped.

9. It may be useful at this stage to give a general idea of the geophysical features, known resources of the ocean floor and present technological capability to exploit them.

10. The land underlying the seas and the oceans constitutes nearly three-quarters of the land area of this earth. It is commonly divided into the continental shelf, the continental slope and the abyss.

11. The continental shelf can be defined as that area of the sea or ocean floor between the mean low-water line and that sharp change in the inclination of the floor that marks the inner edge of the continental slope. The sharp change in inclination from about one-eighth of one degree to more than three degrees, occurs at varying depths, usually around the 130 to 150 metre contour line. The width of the shelf ranges from less than one mile to up to 800 miles. Continental shelves, frequently scarred by deep canyons, can be generally characterized as the geological continuation of adjacent land areas of which they are the submerged extension.

12. The continental slope, usually from ten to twenty miles wide, extends from the outer edge of the continental shelf to the abyss or ocean floor. The inclination of the slope varies widely from as little as three degrees to over forty-five degrees: slopes of twenty-five degrees are common.

13. The abyss or ocean floor appears to be a rolling plain from 3,300 to about 5,500 meters below the surface of the sea: it is scarred by deep gorges called trenches and studded with sea mounts and guyots. The mean depth of the superjacent waters is 3,800 metres. More than 75 per cent of the ocean floor lies at a depth of less than 5,000 metres.

14. Ocean basins are frequently separated by great submarine mountain ranges, a few of the peaks of which sometimes rise above the water. The greatest mountain ranges on earth are not on any continent, but in the sea. The Mid-Atlantic ridge extends the entire length of the Atlantic, spanning one-third of the circumference of the globe and frequently rising 3,500 metres above the ocean floor. The Mid-Oceanic ridge, extensively mapped during the years 1959-1965 by the International Indian Ocean Expedition, organized by the Inter-governmental Oceanographic Commission, curves in a great arc, in places 1,500 miles broad, from the Arabian peninsula to the Crozet Islands, rising occasionally to 5,000 metres above the abyss, yet even its highest peaks miss the surface.

15. The floors of the seas and oceans are covered by sediments: terrigenous comparatively near the coast, pelagic farther from shore. Pelagic sediments are called clays when they contain less than 30 per cent of organic remains, and oozes when they contain more than 30 per cent of these remains. The oozes in turn are divided into two main groups: calcareous oozes and siliceous oozes. Oozes and clays are the dominant sediments of the ocean floor. However, other materials must also be mentioned; the most important of these are manganese nodules.

16. The beach and sea-water resources of continental shelves have been exploited for hundreds, indeed many thousands, of years for the extraction of salt, sand, gravel and other useful products. The chemical composition of water has long been known. I remember learning at school, almost forty years ago, that a cubic mile of sea-water contained so many million tons of salt, of compounds of calcium, magnesium and potassium, so much bromine and so many tons of other minerals, including sixty-five tons of silver and twenty-five tons of gold. I had visions of discovering a successful method of extracting a portion of all this wealth, visions which apparently were shared by the German Government after the First World War when it outfitted a vessel, the Meteor, to investigate whether it was possible to find a cheap method of obtaining gold from sea-water to pay war reparations. Unfortunately, it was found that the cost of extraction far exceeded the amount of gold recovered, and the Meteor returned with much scientific information but little gold.

17. An economic method of extracting gold and silver from sea-water has not yet been found, but in-solution mining—that is, the process of recovering resources by extracting them from sea-water—is acquiring ever increasing importance in unexpected fields. I do not refer so much to the mining of salt, bromine, compounds of potassium, calcium, magnesium or iodine

or to the possibilities of mining other minerals, as to the development of an advanced technology for the cheap extraction of fresh water from sea-water which gives us the promise of making deserts bloom and the possibility of supplying the water needs of multiplying urban populations.

18. In contrast to in-solution mining, on-bottom mining—that is, the process of recovering resources lying on the ocean floor—is quite recent and may be said to date substantially from the end of the Second World War. It involves three stages: exploration, the mining operations themselves and transportation to markets. Photography and dredging have up to the present been the principal methods of undertaking exploration, and have enabled us to obtain a good knowledge of the on-bottom mineral resources of large areas of the sea-beds of the continental shelves of many countries. The recent construction of specialized submersibles will enable us to expand our knowledge more rapidly and conveniently. Principal on-bottom minerals mined at the present time on continental shelves, usually by means of bucket ladder, hydraulic or grab bucket dredges, include tin off Thailand, Indonesia and Malaysia, diamonds off South Africa, phosphorite off California, and so on.

19. Sunken treasures are among the more romantic things sought for in the shallow waters of continental shelves. Their economic value is sometimes considerable: within the last few months the treasure, worth an estimated $3 million, carried by Admiral Shovell's fleet, was discovered near the Scilly Islands, and the hulk of a Netherlands ship transporting some half million dollars' worth of bullion was also discovered.

20. It may also be convenient to refer briefly at this stage to the archaeological treasures lying on continental shelves and on the ocean floor. I have seen an apparently authoritative statement to the effect that there would appear to be more objects of archaeological interest lying on the bottom of the Mediterranean than exist in the museums of Greece, Italy, France and Spain combined. There must be some basis for the statement since the French Government has constructed a submersible, the Archéonaut, specially designed for underseas archaeological exploration. In addition, the Archéonaut will have the important scientific mission of systematically studying for the first time in history the submerged quaternary beaches and their prehistoric inhabitants.

21. Sub-bottom mining involves the recovery of minerals existing under the floor of the sea-bed, and may involve either the exploitation of vein deposits or of materials such as petroleum, gas and sulphur. Vein deposits, exploited by driving shafts and tunnels from adjoining land, are now mined, among other places, off Finland and Newfoundland for iron and near Japan, England and Canada for coal. In view of the limited extent of known undersea vein deposits of metallic ores and the inconvenience and comparatively high cost of their exploitation, they would not appear to possess much potential significance for world production. Quite the contrary is the case for petroleum, natural gas and, to a somewhat lesser extent, sulphur.

22. Although offshore mining of petroleum dates from 1899, production did not become of real economic significance until after the Second World War. The rapid progress made both in evaluation and in the exploitation of offshore petroleum resources is illustrated by the following tentative and incomplete data: in 1947 petroleum reserves under the United States continental shelf were estimated at around 33 billion barrels and annual offshore production was about 25 million barrels, in 1965 known reserves were estimated at some 100 billion barrels and annual offshore production had grown to 240 million barrels which, however, was still only about 7.5 per cent of total United States petroleum production. In other parts of the world similar rises in annual offshore production and in known reserves have been recorded over the past twenty years. To give but one example, the Komsomolskaya Pravda of 16 August 1967 reported that enormously rich deposits of oil had been found on the arctic continental shelf of the Soviet Union at depths of twenty to twenty-five metres. The article stated: "The Tyumen region alone promises by 1980 —that is, in a dozen years—to yield as much oil as was produced in the entire Soviet Union last year (1966)". Exploration of offshore petroleum resources is proceeding at an accelerated pace in nearly all parts of the world with drilling expenditure growing at a 14 per cent compound annual rate.

23. Even more spectacular progress has been made in the exploration and exploitation of offshore natural gas. In 1950 United States offshore natural gas reserves were estimated at 50 trillion cubic feet and in 1965 they were estimated at 150 trillion, in the six-year period 1960 to 1965 offshore gas production has more than doubled from 403 billion cubic feet to 977 billion cubic feet. Exploration activity is continuing feverishly. We have all heard, for instance, of the enormous discoveries of natural gas under the North Sea. According to the Oil and Gas Journal of 27 February 1967 the Groningen field alone is reputed to contain 40 trillion cubic feet of natural gas, the Shell/Esso 49/26 field another 6 trillion, and several other blocs have reserves in the trillions.

24. Up to now I have been speaking exclusively of resources known to exist under the shallow waters of the continental shelf. I have tried to make the point that these resources are known to be valuable and that, at least in the case of petroleum and natural gas, systematic exploitation of presently known offshore resources is likely to be sufficient to cover by itself expected growth in demand.

25. The continental shelf, as we have defined it, however, constitutes less than 10 per cent of the sea-bed and ocean floor of the world. We must now examine whether the vast, mysterious submarine areas plunged in perpetual darkness that lie beyond the continental shelf contain valuable known resources and whether such resources may be commercially exploited on a large scale in the near future, and by the near future I mean within the next decade. In this connexion we shall not refer to the possibility of in-solution mining which, although practicable, does not appear likely, but rather to the potential for on-bottom and sub-bottom mining.

26. Nearly a hundred years ago the Challenger expedition discovered the existence of phosphorite and manganese dioxide concretions on the ocean floor.

The abundance of such concretions—commonly called nodules—was confirmed over the years by a number of oceanographic expeditions, and their chemical composition was studied. Manganese nodules, in particular, have attracted attention and the extent of deposits and concentration of the nodules in various locations on the ocean floor have been ascertained with good approximation. Manganese nodules are irregularly spherical in shape, like potatoes, ranging from 0.5 to 25 cm. in diameter, and are commonly found on the surface of the ocean floor at a depth of between 1,500–6,000 metres. Concentration of the nodules on the ocean floor, their chemical composition and the extent of the deposits vary widely. It would appear that about 20 per cent of the surface of the Pacific Ocean floor is covered by nodules, sometimes in the almost incredible concentration of 50 kg. per square metre. Maximum known metal content of the main materials in the nodules has been determined as follows: 57.1 per cent manganese, 39.5 per cent iron, 2.1 per cent cobalt, 2.9 per cent copper, 2.4 per cent nickel and .5 per cent lead. I do not have world tonnage estimates of manganese nodules; tonnage estimates for manganese nodules lying on the surface of Pacific Ocean sediments are quoted by John L. Mero in his book The Mineral Resources of the Sea.2/ They range from estimates made by Zenkevitch and Skornyakova of 0.9×10^{11} tons to estimates of 17×10^{11} tons. On the basis of those estimates Mr. Mero has attempted conservatively to calculate the reserves of metals in the manganese nodules of the Pacific Ocean. The results are astounding. The nodules contain 43 billion tons of aluminium equivalent to reserves for 20,000 years at the 1960 world rate of consumption as compared to known land reserves for 100 years; 358 billion tons of manganese equivalent to reserves for 400,000 years as compared to known land reserves of only 100 years; 7.9 billion tons of copper equivalent to reserves for 6,000 years as compared to only 40 years for land; nearly one billion tons of zirconium equivalent to reserves for 100,000 years as compared to 100 years on land; 14.7 billion tons of nickel equivalent to reserves for 150,000 years as compared to 100 years on land; 5.2 billion tons of cobalt equivalent to reserves for 200,000 years as compared to land reserves for 40 years only; three-quarter of a billion tons of molybdenum equivalent to reserves for 30,000 years as compared to 500 years on land. In addition, the Pacific Ocean nodules contain 207 billion tons of iron, nearly 10 billion tons of titanium, 25 billion tons of magnesium, 1.3 billion tons of lead, 800 million tons of vanadium, and so on. Manganese nodules, however, are found also in the Atlantic and Indian Oceans and thus estimates made must be very substantially increased to obtain world estimates.

27. The vastness of this untapped wealth is made even more incredible by the fact that manganese nodules are forming at a rate faster than 1960 world consumption of magnesium, manganese, cobalt, zirconium and other metals.

28. In his book Mr. Mero states that manganese nodules could be mined, transported to port and processed at a cost of some $28.5 per ton, as compared to gross commercial value of recoverable metal content ranging from $40 to $100 per ton. Mr. Mero calculates that if the nodules are mined primarily to obtain nickel, which is at present the most significant metal, an operation designed to produce 100 per cent of United States consumption of nickel would also produce 300 per cent of its annual consumption of manganese, 200 per cent of that of cobalt, 100 per cent of that of titanium, etc., and the deposits would be accumulating faster than they could be mined.

29. It is, I think, clear that unrestricted national exploitation of the manganese nodules of the ocean floor would set a ceiling to prices and curtail the markets of a wide variety of mineral exports that are important for the economy of a number of countries, in the same way as the export markets for many materials of vegetal origin have been curtailed by the development of synthetic or substitute products.

30. But of course the valuable resources lying on the surface of the ocean floor are not limited to manganese nodules. There are the phosphorite nodules already being mined on the continental shelf. Very rich exploitable deposits of phosphorite nodules exist beyond the continental shelf which, Mr. Mero indicates, should give an annual return on investment of around 40 per cent after payment of all taxes.

31. The sediments of the ocean floor also contain an estimated 10^{16} tons of calcareous oozes accumulating at the rate of 1.5 billion tons per annum. If only 10 per cent of those deposits were mined for the manufacture of Portland cement, they would last for 10 million years, but they are accumulating eight times faster than the world limestone consumption in 1964. The siliceous oozes of the ocean floor are estimated to total 10^{13} tons and a product in excess of 99 per cent pure silica on a dry-weight basis is obtainable from them without much difficulty. Mero writes on page 117 of his book:

> "The uses to which this type of ooze may be put are many. It could serve in many of the ways in which diatomaceous earth is now used, such as in lightweight aggregates for concrete, as a filter, in the manufacture of insulation bricks for both heat and sound, as a mineral filler, as an absorbent and as a mild abrasive."

32. Ocean-floor sediments also contain 10^{16} tons of pelagic clays which contain manganese grains in concentrations of up to 5 per cent and, in addition, philippsite, palagonite, copper, nickel, cobalt, vanadium, etc., and rare earths in varying concentrations.

33. Nor is the economic potential of the deep seas and ocean floor limited to the mining of minerals; possibilities of truly inestimable value can clearly be foreseen when these areas can be exploited as a present and future source of food. I do not refer only to the possibilities for further expansion of world fisheries or to a more intensive exploitation of the plant life of the oceans, but primarily to the vast potential for farming and fish husbandry. An author, Arthur Clarke, in his book The Challenge of the Seas,3/ believes that "the time may come when only a few luxury products—fruits for example—will be grown on land and all else will come from the ocean." A

2/ Amsterdam, Elsevier Publishing Co., 1965.

3/ New York, Holt Rinehart and Winston, 1960.

United States business magazine, Forbes, believes that farming of the oceans and on the ocean floor may become commercially profitable in the 1980's. Fish husbandry, utilizing techniques such as the use of dolphins as sheep-dogs, and air-bubble curtains to delimit and protect fish ranges are no longer science fiction; these, together with other techniques, are clearly foreseen possibilities that may transform the entire world food picture in fifteen years' time. In the meantime, the first steps in the transformation of the ways in which the living resources of the sea are utilized have already been taken with the development by scientists of the United States Bureau of Commercial Fisheries of fish-protein concentrate (FPC) from less popular fish. A factory to produce fish-protein concentrate is being built. It is expected that ten grammes of this concentrate will provide adequate animal protein to meet the daily requirements of one child at an estimated daily cost of less than one cent in United States money.

34. Commercial ocean farming and fish husbandry, which I have mentioned in passing, lie in the future. National appropriation and the commercial exploitation of the mineral resources of the ocean floor, on the other hand, are imminent. Leases have already been granted for the mining of phosphorite deposits lying well beyond the continental shelf, at depths exceeding 1,000 metres and at a distance of up to 50 miles from the nearest coast. A prototype submersible for commercial mining of the rich manganese-nodule deposits of the ocean floor at depths up to 4,000 metres is under construction now, and others are planned. The nodules will be raked from the ocean floor and pumped into the vessel; from the submersible the nodules will be transferred easily to an accompanying cargo-ship by means of a floating conduit.

35. If the mineral resources lying on the ocean floor are incredibly vast, equally vast are the resources lying below the floor's surface.

36. We know little about the presence of vein deposits, yet they must in all likelihood exist, as their presence appears to be confirmed by a report which appeared on 7 August this year in The New York Times, to the effect that a rich concentration of gold, silver, zinc and copper ores had been found under the Red Sea at a depth of 7,000 feet. "A very conservative estimate puts the value of ores in this deposit alone at about $1.5 billion" in United States money.

37. More is known about petroleum, gas and sulphur deposits. The resources appear to be phenomenal, and estimates of reserves are constantly increasing as exploration proceeds. In 1947, Pratt estimated world petroleum reserves under the seas at 1,000 billion barrels; in 1966 these were estimated at 2.5 trillion barrels by Rear-Admiral O. D. Waters, Jr.

38. Present offshore commercial petroleum production is confined to the continental shelf at present in waters not exceeding 100 metres in depth, and it still uses land technology. This situation cannot be expected long to continue. Semi-submersible drilling rigs in operation today are capable of drilling in water in depths up to 350 metres. The Mohole project, discontinued in 1966, also potently stimulated progress in the techniques of deep-ocean drilling, and a vessel was constructed capable of drilling to depths of 7,000 metres. Self-propelled, ocean-going oil-drilling rigs currently being advertised in technical journals can anchor in water 180 metres deep and drill 6,500 metres into the ocean floor. Remote-controlled robots for underwater use have been developed to maintain underwater well-heads. Methods of transportation to the coast of offshore oil are also being improved. Oil is now carried by barge, but undersea pipelines already exist; it is probable that we shall see their extension beyond the continental shelf in the near future.

39. The forces that led to the national appropriation and intensifying exploitation of the continental shelf continue to gather strength. Exploitation of the continental shelf over the past twenty years was a gradual process; we must look to its intensification and to the rapid extension of national appropriation and exploitation far beyond the shelf in the next few years. There are various considerations that make such a development virtually certain.

40. Public and private expenditure on oceanographic research and technology is increasing very rapidly. In the United States governmental expenditures in these fields were only $29 million ten years ago; they are now nearly $500 million and are projected to exceed $5 billion in ten years' time. Similar increases in governmental expenditures may be observed in the Soviet Union and France, and no doubt also in other technologically advanced countries. Increases in public expenditure are paralleled by increases in private expenditure, particularly by the oil companies. Massive expenditure is likely to make possible far earlier break-throughs than are now foreseen in the technology still required to make intensive commercial exploitation of the ocean floor possible. As it is, remarkable advances in technology have been obtained with limited budgets in the last few years.

41. Seven years ago the deepest part of the ocean, the bottom of the Mariana Trench, was reached for the first time by a self-propelled vehicle, the bathyscaph Trieste, designed by Auguste Piccard; but vehicles like the Trieste and its French counterpart, Archimède, have serious limitations for commercial use: they require surface support; the use of aviation petrol for buoyancy is a hazard that limits the sea conditions in which they can successfully operate, and they are unwieldy for engineering operations. Thus increasingly advanced vessels derived either from the conventional ring-stiffened submarine hull or from the precision-controlled, welded pressure hull have been or are being built not only for ocean engineering but also for scientific, tourist, rescue and military purposes. Some of these vessels, which do not require surface tenders, like bathyscaphs, already have near-bottom capability exceeding 2,000 metres for extended periods of time. While further progress in the construction of the types of vessel described is possible, it is believed that if present materials—high-strength steels and aluminium—continue to be used, rapidly increasing costs would inhibit extensive commercial and military intrusion into the deep sea. It appears, however, that we are close to a vital breakthrough in technology.

42. In a paper presented at the Conference on Law, Organization and Security in the Use of the Oceans held at Ohio State University in March this year, Dr. Craven stated:

"It has also been suggested by many that the problem of ocean-mining is remote and that exploiters will be relatively few. The presumption is the projected high cost of vehicles and equipment operating on the ocean bottom. It is the thesis of the author that low-cost vehicles capable of exploitation are technologically feasible and will be realized within the next decade. This projection is based on three fundamental premises: one, that deep submersibles ... will operate independently of the free surface; two, that materials for deep submergence will ultimately be less expensive than materials now in use for relatively shallow submersibles; and, three, that free-flooded deep machinery will have been developed. It is surprising to the uninitiated and even to some professionals...to realize that at present the major investment cost of deep submersibles is in the surface ships and surface support. ... This is so, because, except for static pressure, the greatest forces and most dangerous dynamics are at or near the surface and its attendant wave system. ... The resulting elimination of surface support will provide the greatest cost reduction in the system operation.

"The second greatest potential is in materials for deep submergence. Much has been said in the past about the promise of glass and ceramics for use as a low-cost hull material. ... Perceptible progress has been made.

"The third aspect is the development of free-flooding machinery capable of operating in the deep sea. Such equipment has indeed been built and employed. ... A costly development programme should see a commercially available capability for tethered, unmanned vehicles or even tethered, manned vehicles capable of exploiting the deep sea in the near future."

43. In a further paper published in the Proceedings of the U.S. Naval Institute in April 1966 Dr. Craven described at some length the advantages of using massive glass pressure hulls. I shall not go into technical details. All I say in this respect is that deep submergence vehicles, utilizing these new techniques, are now under construction; they will be capable of operating at depths exceeding 7,000 metres for prolonged periods. They will come into operation within the next two years.

44. A second major technological development which is making the sea-bed accessible and exploitable resides in the adaptation of the physiology of man to permit him to operate freely in the ocean at depths at least as great as those of the geophysical continental shelf. The major innovation here is the application of the technique of saturation diving. In this technique, the diver is compressed in an artificial atmosphere (usually oxygen, nitrogen and helium) appropriate to the depth at which he is to operate until the gasses dissolved in his body fluids and body tissues are at an equilibrium. Once appropriately saturated the diver may make limited excursion to deeper depths but may not safely enter shallower water without long and careful decompression. It has been observed that from the surface an excursion to 70 metres is near the maximum; from 70 metres an excursion to 150 metres is more easily tolerated; from 150 metres excursions up to 300 metres—well beyond the geophysical continental shelf isobath—appear to be permitted. The ability to do protracted work on the sea-bed requires the technological capability to heat the diver while he is in the water and a dry chamber which can be occupied during non-working hours. The Conshelf and Sea Lab I and II experiments have demonstrated that this capability exists and that man can live without excessive difficulty and operate with considerable freedom for periods up to one month at depths up to nearly 100 metres. Sea Lab III, which will take place next year, should prove man's ability to live efficiently for long periods at a depth of 150 metres with limited excursions to well over 220 metres. It is difficult to forecast the potential of the saturated diving technique; despite the complex problems involved in the acclimatization—but I would say, reacclimatization—of man to the ocean depths, Admiral Waters confidently predicts that by 1975 "we will have colonies of aquanauts living and working ... at depths in the neighbourhood of 1,500 feet—that is nearly 500 metres". In any case some of the summits of the great submarine mountain ranges are already within range of permanent occupation by man and the technology exists now, or is about to be developed, which will make vast areas beyond the continental shelves both accessible and exploitable.

45. A series of considerations will strongly encourage early employment by nations of the techniques which they have developed. From a commercial point of view, exploitation of on-bottom or sub-bottom resources of the ocean floor has many advantages over exploitation of any but the richest and most favourably located land resources: prolonged negotiations with sometimes unsympathetic foreign governments are avoided, labour costs are minimized, transport costs reduced, and so on. From the point of view of governments of technologically advanced countries, assurance of adequate and independent sources of supply of petroleum, natural gas and many minerals vital to industry eliminates a dangerous import dependency in peace and war and a major factor in foreign exchange difficulties. Finally there are grave considerations of a security and defence nature that impel the major Powers to appropriate areas of the ocean floor for their own exclusive use.

46. The latter is a somewhat sensitive subject which I would have preferred to avoid, but my silence would not prevent security considerations from weighing heavily, and perhaps decisively, on the attitude that will be taken by different countries on the proposals which we shall make. My delegation must therefore show some awareness of the difficult problems that some countries face. I shall not attempt a strategic analysis, but I will limit myself to describing briefly some of the developments we anticipate if the United Nations does not take urgent action.

47. We are all aware of the importance of the sea for defence purposes: from the sea the vastest land masses can be dominated, and the sea in turn is dominated, and can be dominated, from the sea floor. The importance of the sea increases rather than decreases in the age of the nuclear submarine. The development of a technology that permits the physical occupation and military use of large areas of the sea-bed beyond the continental shelf drastically alters traditional constraints on the use of the sea with con-

sequences which even experts may find difficulty fully to assess at the present time; in any case a new dimension is added to strategy.

48. We all know that extremely powerful and sophisticated land-based nuclear missile systems have been developed and are being constantly refined, but the very technology that has made the development of these systems possible has also provided the means for their destruction. What could be more attractive in the era of multiple war-head ballistic missiles, capable of overwhelming defences and destroying land-based hardened missile sites, than to transfer offensive and defensive capability to the seas, an environment highly resistant to the over-pressures of nuclear attack. This indeed has already occurred to some extent with the development of nuclear-powered submarines equipped with nuclear missiles: the present inestimable advantage of these vessels is that they can maintain the balance of terror by guaranteeing a measure of second strike capability since they are almost immune to detection. This immunity and hence this second strike capability could, however, be seriously impaired were tracking devices (which incidentally are already available) installed in suitable areas of the deep seas and of the ocean floor. Such devices can be used, of course, for scientific and commercial purposes, for instance as aids to navigation and for the charting of fish migrations; but they can also be used to detect and to trail possible hostile submersibles.

49. Deployment of an anti-ballistic missile system on suitable areas of the ocean floor, such as on the oceanic mountain ranges, could prove an effective counter to multiple war-head missiles aimed at land targets. The advantages of such a system are obvious: more than one strike at incoming missiles would be possible; secondly, incoming multiple war-head missiles could be attacked before the several war-heads separate.

50. Mobile near-bottom nuclear missile systems can be conceived which, while immune from any presently conceivable form of detection, would provide immense offensive capability.

51. Establishment of fixed military installations on the ocean floor might also be found useful for many purposes.

52. A high degree of self-sufficiency could be obtained for the various military installations hypothetically envisaged by the construction of nuclear power plants providing oxygen by the electrolysis of sea-water while sufficient nutrients exist in the sea to provide ample supplies of food.

53. Thus the advantages of proceeding to utilize the deep seas and the ocean floor for military purposes might at first sight appear compelling to the country or countries possessing the requisite technology. Yet there are disadvantages to such a course of action.

54. Since more than one country is able to utilize the deep seas and the ocean floor for military purposes, we could expect an immediate and rapid escalation of the arms race in the seas, if any of the hypothetical developments that I have mentioned were known to have taken place beyond the limits of the geophysical continental shelf. There would certainly be a race to occupy accessible strategic areas on the ocean floor without much regard to the claims that other nations, not having the capability to occupy these areas, might put forward. Military installations on or near the ocean floor require protection against spying or harassment. This would almost inevitably lead to unilaterally proclaimed jurisdiction over large areas of the surrounding and superjacent sea; and the consequent curtailment of lawful traditional activities on the high seas would be bitterly resented by many countries. We can only speculate also on what counter-measures would be taken against any specific action to militarize any area of the deep seas or of the ocean floor beyond the continental shelf. It is certain that effective counter-measures are possible: thus the effectiveness of acoustic detection and surveillance devices installed in the oceans could be destroyed by insonifying parts of the oceans themselves. This would be effective militarily, but it would also render near-bottom navigation for all purposes, including scientific purposes, extremely hazardous and would render fishing sonar virtually unusable.

55. In conclusion I would submit that the utilization for military purposes of the deep seas and of the accessible ocean floor, while perhaps attractive at first sight, might provoke political, military and economic complications of such magnitude as to compel very careful assessment of the probable consequences by the Powers concerned. I would respectfully urge upon the major Powers the utter futility of attempting to obtain a temporary military advantage by using the ocean floor, beyond the geophysical continental shelf, for military purposes. Legitimate defence needs and the balance of terror, as well as the interests of all countries, can far better be safeguarded by developing within an international framework credible assurances that the sea-bed and the ocean floor will be used exclusively for peaceful purposes. This has already been done with respect to outer space. We trust it will also be possible to do so with respect to the ocean floor.

56. Unfortunately the present juridical framework clearly encourages, subject to certain limitations, the appropriation for national purposes of the sea-bed beyond the geophysical continental shelf.

57. As I have already had occasion to mention, the sea-bed and the ocean floor are land. There are five generally recognized modes of acquiring land in international law: cession, subjugation, accretion, prescription and occupation. In the interests of brevity, I shall deal only with the latter.

58. Occupation is a mode of acquisition recognized by international law involving the intentional appropriation by a State of territory not already under the sovereignty of another State. Generally recognized principles of international law with regard to occupation may be summarized as follows. Effective occupation is required: possession and administration are two prerequisites to effective occupation. The extent of occupation required to establish title depends in practice upon the nature of the territory involved: the more remote or inaccessible the territory the less is the degree of control required by traditional international law to acquire title. Thus in the nineteenth century occupation of strips of coast in Africa

was deemed to confer rights, the exact nature and extent of which was disputed among the Great Powers, on the hinterland, also vaguely defined, over which in effect little control was exercised by the Power occupying the coast. In the 1933 Case of Eastern Greenland the Permanent Court of International Justice gave support to the doctrine of continuity as applied to remote areas, by holding that colonization of a part of Greenland served as effective occupation of the whole. 4/ These traditional concepts still constitute a valid background to present international law regarding the ocean floor, which has developed in the past twenty years on the basis of unilateral action taken by States in response to needs; action subsequently endorsed by the international community. The first and most significant event in the development of the present legal structure was the Truman Proclamation of 1945 5/ issued at a time when the United States, having acquired an advanced technical capability, was faced with the problem of acquiring jurisdiction and control over the continental shelf. The Proclamation declared that since modern technology was capable of exploiting the resources of the continental shelf, since recognized jurisdiction over such resources was necessary and since the exercise of such jurisdiction by the contiguous State was just and reasonable, the United States therefore regarded the resources of the shelf contiguous to the United States as "appertaining to the United States and subject to its jurisdiction and control" without this in any way affecting the character of the high seas above the shelf. The continental shelf was not defined in the Proclamation, but a subsequent State Department press release stated that it was delimited by the 100 fathom (200 metre) isobath. The Proclamation totally rejected the concept of the continental shelf as res omnium communis—a point on which there had been considerable dispute previously among legal experts—and avoided explicitly founding assertion of jurisdiction on the terra nullius occupation theory of acquisition of territory, preferring instead to justify the action taken on the assumption that the continental shelf is the geological extension of the littoral State and that the coastal State has a reasonable right to regulate activities off its shores.

59. The Proclamation was followed by pronouncements from a number of States asserting various rights, including sovereignty, over vast areas of the ocean floor extending at great distances beyond their territorial waters. Although protests were filed against such extensive declarations, virtually no opposition was registered against the Truman Proclamation and other similarly limited claims. The general acquiescence of the international community to the assertion of jurisdiction and control over the resources of the shelf by the littoral State may be construed as evidence—controverted, however, as late as 1951 by Lord Asquith in the Abu Dhabi case 6/—that a new rule of international law had been established. There existed, however, an evident necessity for uniformity with regard to the claims of States to the continental shelf and, at the request of the General Assembly [General Assembly resolution 899 (IX)], the International Law Commission studied the problem. The work of the International Law Commission was eventually considered by the United Nations Conference on the Law of the Sea held in Geneva in 1958, and this in turn resulted in the drafting of the Convention on the Continental Shelf 7/ of 29 April 1958, which came into force in 1964 and which embodies the current state of present international law.

60. The Convention, in article 1, recognizes the right of the coastal State to exercise sovereign rights over the continental shelf defined as:

> "(a) ... the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) ... the sea-bed and subsoil of similar submarine areas adjacent to the coasts of islands."

In article 2, paragraph 3, the rights of the coastal State are made explicitly independent of "occupation, effective or notional" or of "any express proclamation". Detailed rules for the delimitation of the continental shelf between adjacent States or States whose coasts are opposite each other are made in article 6. The sovereign rights of the coastal States are subject to the limitations mentioned in article 5 and are declared not to affect the legal status of the superjacent waters as high seas.

61. At the time of its conclusion, the Convention was hailed as a major achievement of the United Nations. So convinced were legal experts of its excellence that revision was made difficult; not before five years after its entry into force, that is not before 1969, can any request for revision be entertained, and even then article 13 (2) provides that "the General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request".

62. I shall not presume to comment on the virtues of the Continental Shelf Convention; undoubtedly it was believed that prompt and orderly disposition had been obtained of a new problem of international concern. Unfortunately, however, the framers of the Convention were not in touch with developing technology and apparently did not conceive of the possibility that the sea-bed could be exploited both for military and commercial purposes at depths beyond the arbitrarily selected 200-metre isobath.

63. As Grunawalt states in an article published in the New York Law Journal of 24 January 1967, "the definition of the continental shelf, as incorporated in the Convention, is a compromise between the 200-metre rule advocates—proponents of fixity and certitude—and depth of exploitability proponents", that is, advocates of the need for flexibility.

64. In the light of current technological developments, however, the compromise turns out to be no compromise at all; it is clear that the sea-bed beyond the 200-metre isobath will soon be subject to exploitation. The only question is, will it be exploited under national

4/ Permanent Court of International Justice, Series A./B. Judgements, Orders and Advisory Opinions, Fascicule No. 53.

5/ See Laws and Regulations on the Régime of the High Seas (United Nations publication, Sales No.: 51.V.2.), pp. 38 and 112.

6/ International Law Reports 1951 (London, Butterworth and Co., 1957), p. 144.

7/ United Nations, Treaty Series, vol. 499 (1964), No. 7302.

auspices for national purposes, or will it be exploited under international auspices and for the benefit of mankind? The wording of the Convention, whatever may have been the intentions of its authors, provides powerful legal encouragement to the political, economic and military considerations that are inexorably impelling technologically advanced States to appropriate the sea-bed and the ocean floor beyond the 200-metre isobath for their own use.

65. The definition of the continental shelf, as incorporated in the 1958 Geneva Convention, has lent itself to two basic interpretations. The first is based on the idea, first authoritatively enunciated in the Truman Proclamation, that the shelf is but the geophysical extension of the coastal State's land mass and that, therefore, it is just and reasonable that the littoral State should lay claim to its resources. This theory gives considerable weight to the word "adjacent" in the second line of article 1 of the Convention on the Continental Shelf. Thus it is held that there are three elements defining the submarine areas included in the continental shelf: the 200-metre isobath, depth of exploitability and adjacency, or at least some vague degree of proximity, to the coast. In support of this view, it is maintained that a careful analysis of the proceedings of the Fourth Committee of the United Nations Conference on the Law of the Sea shows that the deep-sea floor, with the possible exception of areas immediately adjacent to the coasts, cannot be included within the scope of the Convention on the Continental Shelf.

66. Exponents of this approach recognize the existence of a possible legal problem with regard to submarine areas situated under still undefined depths of water and at a still undefined distance from the coast. They advocate either delaying the establishment of a legal régime for these, I repeat, still undefined areas until their utilization for military or commercial purposes forces the issue, or suggest, in the words of Northcutt Ely, that "until enough international competition and friction develop to justify the creation of some advance licensing system ... recognition of the flag of the raft or other surface mechanism from which the exploration is controlled sufficiently identifies the jurisdiction which ought to have plenary control over the exploration and over the exploitation of the resources so discovered". Apparently the distinguished author did not envisage the possibility either of commercial or military, manned or unmanned permanent installations on the ocean floor without surface support, or the possibility of attempts at competitive exploitation of the same mineral or petroleum deposit.

67. The above interpretation of the 1958 Geneva Convention has, however, not gone unchallenged since it is in direct contradiction to the explicit wording of article 1 (a), which states that the continental shelf extends "... to ... the submarine areas adjacent to the coast ... to a depth of 200 metres and beyond that limit to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas". Thus an influential school of thought denies the possibility of any legal problem whatsoever. Professor Shigeru Oda of Tohoku University, for instance, points out that: "there is no room to discuss the outer limits of the continental shelf or any area beyond the continental shelf under the Geneva Convention since ... all the submerged lands of the world are necessarily parts of the continental shelf by the very definition of the Convention". Under this concept a coastal State, as its technical capability develops, may extend its jurisdiction across the deep-sea floor up to the midway point between it and the coastal State opposite, in accordance with the rules contained in article 6 of the Convention. Such an interpretation gives the governing Powers of islands such as Clipperton, Guam, the Azores, St. Helena or Easter, sovereign rights over millions of square miles of invaluable ocean floor.

68. More important than the opinion of jurists, however, and however distinguished they may be, is the action taken by governments; and such action appears to be increasingly based on an interpretation of the 1958 Geneva Convention even more far-reaching than that of Professor Oda. For instance, the United States has already leased tracts of land situated under water several hundred fathoms deep and well beyond its territorial waters, basing itself on a Department of Interior legal memorandum which holds that the leasing authority of the United States under the Outer Continental Shelf Lands Act "extends as far seaward as technological ability can cope with the water depth, this is in accord with the Convention of the Sea adopted at Geneva". This practice is spreading.

69. Thus, for instance, following the phenomenal discoveries of natural gas to which we have already referred, the bed of the North Sea was distributed among the littoral States in 1964 in accordance with the rules contained in article 6 of the Geneva Convention, but with little regard either to the geophysical features of the sea-bed—for instance, the deep trench clearly separating the geological continental shelf of Norway from that of the other States—or to the principles of adjacency and depth of water stressed by the first school of thought that we mentioned. Vast deposits of natural gas have been discovered in the Baltic, and no doubt we shall soon be informed that the bed of this shallow sea has also been parcelled out among the riparian States.

70. In citing the action taken by States, I intend no criticism; there is little doubt that the sea-bed of the Baltic and of most of the North Sea can come within a reasonable geophysical definition of the continental shelf. I would stress, however, that much more far-reaching action to appropriate the sea-beds can clearly be foreseen at the present time. When this action is taken it will be irreversible by the international community and will entail not only immense prejudice to all land-locked countries but also to most of the coastal States that do not have the requisite technical competence to exploit the ocean floor. Under-developed States fronting on an ocean might believe that a division of the ocean floor of the world would be advantageous to them. This is a complete—and I should like to reinforce this—and utter illusion. Is it credible that technologically advanced countries would be deterred from exploiting rich mineral resources on the ocean floor situated at some distance from the nearest coast of another country for the sole reason that these deposits happened to be under the theoretical jurisdiction of a State unable to exploit them? Indeed voices are already being raised interpreting article 1 of the 1958 Geneva Convention as giving licence to

a coastal State facing the ocean to extend its jurisdiction over the ocean floor as far as its technology permits exploitation; in the words of Franklin: "the only limitation to exploitation will be that of technology".

71. It is even less credible that technologically advanced countries, encouraged by the terminology of the juridical masterpiece produced by the International Law Commission, would agree to adopt a restrictive interpretation of their rights under the Geneva Convention when their defence needs are directly involved. Only recently the U.S. News & World Report of 16 October 1967—a few days ago—revealed that certain quarters were considering the possibility of sinking nuclear missiles in capsules under the sea "off [potential] enemy coasts with a remote-control mechanism for firing", "Off [potential] enemy coasts ..." of course, outside territorial waters, but there is no longer any question here of respecting theoretical median lines between States whose coasts are opposite each other.

72. Even the traditional freedom of the high seas, one of the few things explicitly safeguarded in the 1958 Geneva Convention, would be gravely endangered should a militarization of the ocean floor be allowed to take place. The legal argument that could be developed in this connexion might read as follows: It is a traditional principle of international law that a State exercising sovereignty over land also exercises jurisdiction over the superjacent atmosphere up to the still undefined limits of outer space; but the sea is the atmosphere of the ocean floor, hence a State exercising sovereignty over an area of the ocean floor also has a claim to jurisdiction over the superjacent sea despite the wording of article 3 of the 1958 Geneva Convention. Any legal argument of this nature would, of course, be very strongly controverted by the many members of the international community; but the issue will not be decided by legal arguments but by the vital need to control transit in the vicinity of any military installations that may be established on the ocean floor. This is not the fruit of my imagination; it is not an invention of the Government of Malta. I am reproducing here, perhaps crudely but not unfaithfully, views held by military experts of more than one country. For instance, a distinguished and internationally known expert, whose name I shall not mention, stated this year:

> "Military installations are now centred reasonably close to the land mass; that will not be the case ... ten years from now. We will carve out rather large chunks of the ocean away from the land masses which we ... regard as very important to our national defence and ... we shall deny ... access by any other nation to the areas which we will block out."

73. We have seen that the potential implications of the 1958 Geneva Convention on the Continental Shelf are gravely prejudicial to all countries, whether land-locked or not, that do not possess either the financial resources or the technical competence to maintain their position in the oceanographic technology race. By encouraging the establishment of a plurality of national jurisdictions on the ocean floor, the Geneva Convention, unfortunately, also impedes a solution, beneficial to all countries, of the grave problem of the disposal of radio-active wastes.

74. It is true that a complementary treaty, the 1958 Geneva Convention on the High Seas,[8] prescribes in article 25:

> "Every State shall take measures to prevent pollution of the seas from the dumping of radio-active waste, taking into account any standards and regulations which may be formulated by the competent international organizations."

But, apart from the fact that by no means all States have ratified the Convention on the High Seas, the problem by its very nature is hardly susceptible to a satisfactory solution in the present legal context.

75. The question of preventing the pollution of the seas from the discharge of radio-active wastes has been the subject of prolonged consideration by the International Atomic Energy Agency. A panel of experts, convened by the IAEA, concluded preliminary consideration of the problem in 1960 by issuing a report.[9] The report, while recognizing "the subtle and persistent nature of the hazards of radio-activity" which make it desirable in this field that safe waste disposal practices be initiated from the beginning, did not express undue alarm. The attraction of the sea "as an environment for the application of the dilution and dispersal technique for waste disposal" were acknowledged and it was stated that "the bottom of the deep sea can safely receive much greater quantities of radio-active wastes than can be allowed on the continental shelf". And we can all unanimously agree that the sea can receive greater quantities of radio-active wastes than can be allowed on the continental shelf.

76. After a brief, but factual and comprehensive review of the problem, the expert panel in its recommendations, oriented, however, almost exclusively towards avoiding an unacceptable degree of hazard in man as distinguished from plant life and sea living biota, reached the following conclusions:

> "(1) At present, the release into the sea of highly radio-active wastes from irradiated fuel cannot be recommended as an operational practice;
>
> "(2) Wastes of low and intermediate activity may be safely disposed of into the sea under controlled and specified conditions ...".

And in this connexion the panel suggested various precautions that it would be advisable to take with regard to selection of disposal sites, packaging of radio-active wastes, etc.

77. The expert panel also recommended that:

> "(8) All authorities setting up disposal sites in the sea should provide to a suitable international authority information necessary to maintain an adequate register of radio-active waste disposal into the sea;
>
> "(9) The IAEA should maintain this register and should receive:
>
> "(a) Notice of the licensing requirements of all sea-disposal areas set up by national authorities ...

8/ Ibid., vol. 450 (1963), No. 6465.

9/ International Atomic Energy Agency, Safety Series No. 5, 1961.

"(b) Annual reports on the state of such sites ...

"(c) The monitoring programme and all relevant scientific findings;

"(10) The IAEA should provide for any necessary standardization of monitoring techniques". 10/

78. My country is not a member of the International Atomic Energy Agency, and unfortunately it has not been possible for us to obtain access to the records of the discussions in the Agency on this subject. The annual Reports of the Board of Governors to the General Conference, however, are not very informative on this question; apparently there has been a considerable amount of research and discussion, technical manuals have been published, note has been taken of the introduction of more stringent national disposal rules, meetings have been held, according to the Annual Report for 1963-1964, "to co-ordinate exchange of information on waste management disposal practices and waste management research" and "much progress has been made in the technology of converting high activity liquid wastes into inert solids" according to the Annual Report for 1964-1965, but little light is thrown in all these reports on the vital question of whether the recommendations of the 1961 expert panel were in fact endorsed by the IAEA and on the extent to which those recommendations have in practice been followed by the international community as a whole. We hope that during this debate it will be possible for my delegation to obtain authoritative information on the following points: whether an international register of radio-active waste disposal into the sea has in fact been established and how comprehensive that register is; whether, and how many, annual reports are received by the IAEA on sea-disposal sites established by national authorities; whether a comprehensive world-wide monitoring programme has in fact been established, and whether monitoring techniques have been standardized.

79. In any case, I have found no evidence that any legally binding international instrument setting limits to and rules for the disposal of radio-active waste materials into the deep sea is in force at the present time, nor does there appear to be in operation any effective international system of ascertaining scientifically and systematically, on a world-wide basis, damage to the marine environment caused by present waste disposal practices.

80. I am aware that this question has attracted some controversy. At the 1966 Vienna Symposium on the disposal of radio-active wastes into seas, oceans and surface waters, some of the papers presented minimized the possibility of hazards, assuming, of course, appropriate disposal techniques. Among the several papers that reached this conclusion, with varying qualifications, however, the one presented by Rodier and others was perhaps the most categorical. I shall quote its conclusions.

"In the course of the seven years that have elapsed, the disposal of radio-active liquid waste products from the Marcoule Centre into the Rhône has been carried out in very satisfactory conditions. Regulation of the amounts of radio-active elements to be disposed of has never been an obstacle to the operation of the production installations. Moreover, no accidental or abnormal pollution of the Rhône has been registered." 11/

81. On the contrary, however, Vdovenko, Gedeonov, Kolesnikov and others presented a paper based on the observations carried out during the 1963-1964 oceanographic campaign of the research vessel Mikhail Lomonosov which concluded that:

"... extremely high concentrations of strontium-90 and caesium-137 were detected in the equatorial zone of the Atlantic, exceeding the mean Atlantic level by a factor of 5-6, and by a factor of 14 at a depth of 1,000 m. This abnormal concentration cannot be explained by reference to the atmospheric sources of contamination. The established fact of a considerably increased content of strontium-90 and caesium-137 in the ocean by comparison with the land, together with the discovery of abnormally contaminated areas in the ocean, point to the possibility of other sources of contamination of the Atlantic in addition to that represented by the atmosphere". 12/

82. A further paper by Belyaev and others demonstrated that strontium-90 concentrations in the Black Sea exceed those of the Atlantic Ocean, that surface contamination rapidly penetrates to the bottom, and that "solid or liquid wastes even if disposed of at the bottom rapidly reach the surface". Feldt, expert of the Bundes forschungsanstalt für fischerei, studying radio-active contamination of North Sea fish, concluded that there had been "no decrease in the contamination of fish since the cessation of [the atmospheric] bomb testings" and that "The processing of fish meat by boiling and frying has no observable effect on decontamination". 13/

83. Since the papers submitted show marked differences in the conclusions of experts as to present hazards with regard to present practices of radio-active waste disposal into the sea, perhaps the only conclusion that a non-expert can draw at this stage from the available evidence is that, although hazards to man have not yet reached an acute stage, and although serious damage to the marine environment can be demonstrated only in a few areas, the whole question deserves far greater and deeper consideration than it has received heretofore.

84. We are reinforced in our view by the knowledge that the use of nuclear power is rapidly increasing and may be expected to continue to increase, with the possible consequence that ever-increasing quantities of radio-active waste may be dumped in the sea, chiefly because that method of disposal is cheaper and more convenient in some cases than reducing the wastes to solids and disposing of them in safe burial grounds. The ultimate implications of the continuation

10/ Ibid., p. 78.

11/ Quoted in French by the speaker. Source: International Atomic Energy Agency, Disposal of Radio-active Wastes into Seas, Oceans and Surface Waters, Vienna (1966), p. 722.

12/ Ibid., p. 425.

13/ Ibid., p. 751.

of present popular methods of radio-active waste disposal in the sea is well described by Jacques-Yves Cousteau in a passage of his book The Living Sea. Describing a meeting convened by the Délégation Générale à la Recherche Scientifique he writes, and I quote from the translation:

"However, the most popular refuse dump with the atomists was the ocean. Several delegates spoke matter-of-factly of how their countries were already sinking the stuff in the sea.

"The differences between the physicists and biologists were now pronounced. After the meeting adjourned, dignified gentlemen exchanged impassioned dialogues. I heard one biologist say 'Strontium-90 will contaminate fish.'

"A nuclear physicist replied, 'Strontium-90 concentrates only in the bones. Who eats the bones?'

"'Chickens eat them', the oceanographer said. 'Bone-meal is a by-product of fish canning. Our children's eggs will become radio-active.'

"Professor A is a calm, reflective person. He said gently, 'Jacques, this is not the problem. There is only one problem for the future of mankind, and that is the population explosion. Soon we will have ten billion people, later twenty. Perhaps it will reach a hundred billion. We will have to feed all these people. The natural resources of the sea and land put together will fall far short. But, thank God, there is an equivalence between food and energy. We will have to develop nuclear energy without limit to run factories that will produce the protein to feed the whole of mankind, no matter how many.

"That is why we must go full ahead with atomic energy, even at the cost of closing the sea to all human use, including navigation.' "[14]

85. Cousteau comments: "... we risk poisoning the sea forever just when we are learning her science, art and philosophy, and how to live in her embrace."[15]

86. Does the international community wish this to happen?

87. The question of the prevention of the pollution of the seas from the dumping of radio-active wastes is, of course, but one aspect of the wider problem of marine pollution. Uncontrolled dumping of detergents, pesticides and heavy metal and petrochemical wastes into the sea can be almost as hazardous to health and food supplies as the dumping of radio-active wastes. Outlining this wider problem recently, Prof. Korringa of the Netherlands Institute for Fishing Investigations described the effect on marine life of a comparatively small amount of copper sulphate dumped into the North Sea: "... in two weeks' time the poisonous body of water, killing both fish and invertebrates, had moved along the coast quite a distance, but it was not yet diluted as much as five times ... ". Wastes create such dramatic phenomena as the notorious "red tide", poisonous phytoplankton which destroys whole populations of fish. Various aspects of the question of waste disposal into the marine environment are the concern of a number of United Nations agencies in addition to IAEA; the Intergovernmental Maritime Consultative Organization (IMCO) has competence over wastes discharged from vessels—a competence with which it has been actively concerned, particularly since the recent wreck of the Torrey Canyon created a certain problem off the coasts of the United Kingdom and France; the Food and Agriculture Organization (FAO) is, of course, concerned with the results of pollution in so far as they affect fish while the Intergovernmental Oceanographic Commission (IOC) related to the United Nations Educational, Scientific and Cultural Organization (UNESCO), has considered in some detail the general scientific aspects of pollution. Plurality of jurisdiction, fragmentation of competence, a general lack of a sense of urgency, have unfortunately not resulted in effective international action to contain the massive problem of marine pollution.

88. I have spoken at some length, yet I am deeply aware that I have not succeeded in treating the question before us as comprehensively as I would have wished. I dare not take too much more of your time. I shall therefore make some final observations on those aspects of the question which we have tried to elucidate, briefly review action taken within the United Nations system, and then submit the proposals which my Government has instructed me to put forward for the consideration of this Committee.

89. The sea-bed and the ocean floor constitute nearly three-quarters of the land area of the earth.

90. Current international law encourages the appropriation of this vast area by those who have the technical competence to exploit it.

91. The known resources of the sea-bed and of the ocean floor are far greater than the resources known to exist on dry land. The sea-bed and the ocean floor are also of vital and increasing strategic importance. Present and clearly foreseeable technology also permits their effective exploitation for military or economic purposes. Some countries may therefore be tempted to use their technical competence to achieve near-unbreakable world dominance through predominant control over the sea-bed and the ocean floor. This, even more than the search for wealth, will impel countries with the requisite technical competence competitively to extend their jurisdiction over selected areas of the ocean floor. The process has already started and will lead to a competitive scramble for sovereign rights over the land underlying the world's seas and oceans, surpassing in magnitude and in its implication last century's colonial scramble for territory in Asia and Africa. The consequences will be very grave: at the very least a dramatic escalation of the arms race and sharply increasing world tensions, caused also by the intolerable injustice that would reserve the plurality of the world's resources for the exclusive benefit of less than a handful of nations. The strong would get stronger, the rich richer, and among the rich themselves there would arise an increasing and insuperable differentiation between two or three and the remainder. Between the very few dominant Powers, suspicions

[14] The Living Sea (New York and Evanston, Harper & Row, 1963) pp. 306-307.

[15] Ibid., p. 313.

and tensions would reach unprecedented levels. Traditional activities on the high seas would be curtailed and, at the same time, the world would face the growing danger of permanent damage to the marine environment through radio-active and other pollution: this is a virtually inevitable consequence of the present situation.

92. These are the prospects that the world faces, not in a remote future, but as an immediate consequence of forces and pressures already at work.

93. Can these pressures be restrained through the continuation and normal expansion of the work already being undertaken within the United Nations system and by related inter-governmental bodies?

94. Nearly all United Nations agencies are directly or indirectly, actively or potentially, concerned with the seas: we have seen that the IAEA has done useful research on the question of radio-active waste disposal into the seas; the International Labour Organisation (ILO) is concerned with the conditions of work of seafarers; FAO and other agencies with fisheries; IMCO and the United Nations Conference on Trade and Development (UNCTAD) with shipping; the World Health Organization (WHO) has a potential interest in the health of aquanauts. There are also the World Meteorological Organization (WMO), UNESCO and other agencies.

95. The United Nations itself has been somewhat slow in entering the field: the basic resolutions are Economic and Social Council resolution 1112 (XL) of 7 March 1966 and General Assembly resolution 2172 (XXI) of 6 December 1966.

96. The former requests the Secretary-General:

"(a) To make a survey of the present state of knowledge of these resources of the sea, beyond the continental shelf, and of the techniques for exploiting these resources ...

"(b) ... to attempt to identify those resources now considered to be capable of economic exploitation, especially for the benefit of developing countries;

"(c) To identify any gaps in available knowledge which merit early attention ...

"(d) To report on the progress of the survey at an early session of the Council".

97. General Assembly resolution 2172 (XXI) is later in date but vaguer in terminology. This resolution:

"Requests the Secretary-General—in co-operation with the United Nations Educational, Scientific and Cultural Organization and, in particular, its Intergovernmental Oceanographic Commission, the Food and Agriculture Organization of the United Nations and, in particular, its Committee on Fisheries, the World Meteorological Organization, other intergovernmental organizations concerned, and the Governments of interested Member States, ...—to undertake ... a comprehensive survey of activities in marine science and technology, including that relating to mineral resources development, undertaken by Members of the United Nations family of organizations, ...

"... to formulate proposals for:

"(a) Ensuring the most effective arrangements for an expanded programme of international co-operation ... in the exploitation and development of marine resources, ...

"(b) Initiating and strengthening marine education and training programmes ..."

98. The General Assembly further requested the Secretary-General:

"... to set up a small group of experts ... to assist him in the preparation of the comprehensive survey called for in paragraph 2 above and in the formulation of the proposals ...",

and requested that the survey and proposals be submitted to the Advisory Committee on the Application of Science and Technology to Development for its comments and that subsequently the survey, the proposals and the comments be submitted to the twenty-third session of the General Assembly through the Economic and Social Council.

99. Quite a long and arduous journey, and it will be noticed also that the action so far is confined to surveys of progress made in the technology and in the identification of resources that were identified many years ago.

100. Among inter-governmental bodies related to the United Nations system, there is no doubt that the fifty-eight-member Intergovernmental Oceanographic Commission, created by UNESCO in 1960 to co-ordinate oceanographic research at the inter-governmental level, has been the most active with regard to the specific question which we are now considering, that is the sea-bed and the ocean floor beyond the geophysical continental shelf.

101. The Commission has interpreted its terms of reference broadly and has been most active in promoting scientific co-operation at the inter-governmental level in all matters concerning the marine environment.

102. Recently the Commission has become increasingly concerned by the uncertainties and grave inadequacies of current international law in so far as it affects scientific investigation of the oceans. This year the Soviet Union proposed that the IOC create a special working group on legal aspects of the studies of the ocean and utilization of oceanic resources in order to:

"... prepare drafts of: (a) a convention on the basic principles of conducting scientific research on the high seas, and (b) a convention on the international norms of exploration and exploitation of the mineral resources of the high seas".

In addition the working group was to provide the IOC secretariat with advice on legal aspects of scientific studies of the ocean. Finally, an international conference was envisaged to discuss and adopt the draft conventions. I have not before me the records of the fifth session of the IOC now meeting at the UNESCO headquarters; it is possible, however, that some delegations may have observed that the Soviet proposal concerning the preparation of a convention on the exploration and exploitation of the mineral resources of the high seas went somewhat beyond the competence

of an exclusively scientific organization. In any case the IOC in its resolution adopted a few days ago, on 27 October, limited itself to establishing a "working group on legal questions related to scientific investigations of the ocean", and charged this group with:

"(a) Considering legal aspects specifically related to scientific investigations of the nature and ... resources of the ocean ... with a view to indicating legal principles which should facilitate and guide scientific research ...

"(b) Preparing documentation concerning the effect of the law of the sea on scientific research and proposals relating both to the contribution of scientific knowledge to the development of the law of the sea and to the participation of the IOC in the deliberations of the United Nations and appropriate specialized bodies to assist them in taking proper account of scientific interests ... in the consideration of the further development of the law of the sea."

I am sorry the language is so involved, but it is not my language. The IOC in that resolution also informs the United Nations of the establishment of this working group and declares its readiness:

"(a) To assist in the consideration of the possible future development of the law of the sea, from the point of view of the scientific interests involved, and

"(b) To assist in the acquisition and distribution of scientific knowledge ... necessary for the optimum use of the seas in the interests of mankind. ..."

This information, I think, should be considered by the General Assembly as an invitation to it to act in this matter.

103. From what I have stated I believe it can be reasonably deduced that while the specialized agencies and the United Nations itself may be doing valuable technical work in the fields within their competence, their activities have no prospect in any way of diminishing the pressures making for the competitive appropriation for national purposes of the sea-bed and ocean floor, nor do their activities give much prospect of coping effectively with massive problems of world-wide scope such as the problem of the pollution of the marine environment, since there is a complete lack of a general institutional framework which can provide focus and efficient direction to the fragmented activities that are now going on. Furthermore, reliance by some agencies on the universal and spontaneous implementation by States of recommendations, however desirable, made by technical bodies may perhaps, we submit, be a little optimistic. We also note that the basic political problem has been carefully avoided in all the activities going on so far, and even in General Assembly resolution 2172 (XXI), which is the basic General Assembly resolution, everything is mentioned except the basic political problem. The only result that we can hope for from the study which is now being carried out by the Panel of Experts, which will meet again next year, is a long study and a long discussion of the scientific and engineering aspects of the question.

104. In the circumstances, it is not surprising that increasing concern has been expressed in unofficial quarters over the apparent lack of awareness in the international community of the implications of recent developments in technology in the context of the 1958 Geneva Convention on the Continental Shelf. Increasingly numerous voices have been raised stressing the urgency of considering the vital political questions involved and urging that clear legal provision be made for an international régime, administered by an efficient international authority over the sea-bed and the ocean floor beyond a variously defined continental shelf. I should like to pay a tribute in this connexion both to the Commission to Study the Organization of Peace and to the International Law Association for their excellent work in alerting public opinion, and I would commend for careful study the documentation produced by them on the question we are considering. The latest proposal in favour of an international régime was put forward in July this year by the World Peace Through Law Conference which was attended by over 2,000 lawyers and judges from over 100 countries. That proposal was contained in resolution 15 which deserves to be cited:

"Whereas, new technology and oceanography have revealed the possibility of exploitation of untold resources of the high seas and the bed thereof beyond the continental shelf and more than half of mankind finds itself underprivileged, underfed and underdeveloped, and the high seas are the common heritage of all mankind,

"Resolved, that the World Peace Through Law Center:

"(1) Recommend to the General Assembly of the United Nations the issuance of a proclamation declaring that the non-fishery resources of the high seas, outside the territorial waters of any State, and the bed of the sea beyond the continental shelf, appertain to the United Nations and are subject to its jurisdiction and control." 16/

105. Among the supporters of an international régime for the sea-bed and the ocean floor there are two main currents of opinion. One favours the creation of a new agency responsible for all oceanographic activities, including those concerning mineral resources of the sea. The other prefers to entrust all responsibility to the United Nations.

106. As an illustration of the former current of opinion I will cite the recommendation of the Joint Working Group of the Advisory Committee on Marine Resources Research (ACMRR), the Scientific Committee on Oceanic Research (SCOR) and the World Meteorological Organization (WMO), to the effect that:

"member governments of the United Nations family and the various United Nations agencies give early and thorough consideration to the advisability and feasibility of establishing a central inter-governmental oceanic organization to deal with all aspects of ocean investigation and uses of the sea".

That recommendation is contained in the records of the meeting of the Joint Working Group held from 17 to 21 July 1967.

16/ See United States Congressional Record, Washington, D.C., 1967, vol. 113, p. S 12274.

107. On the other hand, other experts believe, like Christy, that an effective international régime can best be developed under the auspices of the United Nations since this:

> "... is the one public international body ... that comes closest to meeting the requirements ... to achieve an international régime. The United Nations authority must acquire jurisdiction of the resources on and under the sea floor. This jurisdiction must permit it to part and protect exclusive rights of entrepreneurs ... and must also have the ability to tax or extract rent or royalty payments for the use of the resources and it must be given the ability to utilize or distribute these revenues in an acceptable manner."

108. Mr. Chairman, I wonder whether I could take the recess now?

109. The CHAIRMAN: In response to the request of the representative of Malta, we can adjourn now and resume at 3 o'clock.

The meeting rose at 12.55 p.m.

Litho in U.N. 77101—January 1969—2,100

United Nations
GENERAL ASSEMBLY
TWENTY-SECOND SESSION
Official Records

FIRST COMMITTEE, 1516th MEETING

Wednesday, 1 November 1967, at 3 p.m.

NEW YORK

CONTENTS

Chairman: Mr. Ismail FAHMY (United Arab Republic).

AGENDA ITEM 92

Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction and the use of their resources in the interests of mankind *(continued)* (A/6695; A/C.1/952)

GENERAL DEBATE *(continued)*

1. The CHAIRMAN: I call on the representative of Malta to complete his statement.

2. Mr. PARDO (Malta): Mr. Chairman, I am deeply conscious of the fact that the Committee is most anxious to proceed to the Korean question, and I have used the luncheon interval to drastically reduce what I had in mind to say.

3. From what I said this morning, I think it is clear that there can be no doubt that an effective international régime over the sea-bed and the ocean floor beyond a clearly defined national jurisdiction is the only alternative by which we can hope to avoid the escalating tensions that will be inevitable if the present situation is allowed to continue. It is the only alternative by which we can hope to escape the immense hazards of a permanent impairment of the marine environment. It is, finally, the only alternative that gives assurance that the immense resources on and under the ocean floor will be exploited with harm to none and benefit to all.

4. Finally, a properly established international régime contains all the necessary elements which should make it acceptable to all of us here: rich and poor countries, strong and weak, coastal and landlocked States. Through an international régime all can receive assurance that at least the deep sea floor will be used exclusively for peaceful purposes and that there will be orderly exploitation of its resources.

5. You will note, however, that all proposals put forward up to now for an international régime have avoided facing the defence aspects of the question before us. Those aspects, in our opinion, are crucial for an enduring international solution of the problem. Appropriation for national purposes of the sea-bed and the ocean floor beyond the geophysical continental shelf has already started. My Government believes that the international community has no alternative in these circumstances but to aim consciously and with a sense of urgency towards the creation of an international régime, beyond, I repeat, reasonably defined national jurisdiction. In creating such a régime, we must face squarely the vital issues of legitimate national security together with the economic, scientific and other implications.

6. Our general objective must be to create conditions in the marine environment that will be of benefit to all countries. We do not believe that it would be wise to make the United Nations itself responsible for administering an international régime. We say this not because we have any objections of principle, but for practical reasons.

7. I shall not take your time to list them here. I would only observe that it is hardly likely that those countries that have already developed a technical capability to exploit the ocean floor would agree to an international régime if it were administered by a body where small countries, such as mine, had the same voting power as the United States or the Soviet Union.

8. Hence, our long-term objective is the creation of a special agency with adequate powers to administer in the interests of mankind the oceans and the ocean floor beyond national jurisdiction. We envisage such an agency as assuming jurisdiction, not as a sovereign, but as a trustee for all countries over the oceans and the ocean floor. The agency should be endowed with wide powers to regulate, supervise and control all activities on or under the oceans and the ocean floor. It would be premature for me to elaborate on the provisions which could be incorporated in the charter of the suggested agency to ensure that the ocean floor be used exclusively for peaceful purposes. Perhaps it will suffice at this stage to assure you that we have examined the question carefully and my Government is satisfied that it is feasible to give credible assurance to all

countries that through the agency the ocean floor beyond national jurisdiction will in fact be used exclusively for peaceful purposes.

9. In our view the agency should have the power effectively to regulate the commercial exploitation of the ocean floor. We would envisage exploration rights and leases being granted in respect of mineral, petroleum and other resources lying in the area within its jurisdiction. We have made some hasty calculations on the amount of revenue which the agency could be expected to receive from such activities. On the assumption that an agency would be created in the year 1970, that technology will continue to advance, that exploitation will be commensurate with the presently known resources of the ocean floor, that exploration rights and leases will be granted at rates comparable to those existing at present under national jurisdiction and that the continental shelf under national jurisdiction will be defined approximately at the 200 metres isobath or at twelve miles from the nearest coast, we believe that by 1975, that is, five years after an agency is established, gross annual income will reach a level which we conservatively estimate at around $6,000 million. After deducting administration expenses and all other legitimate expenses including support to oceanographic research, the agency would, in our view, still be left with at least $5,000 million to be used to further either directly or through the United Nations Development Programme the development of poor countries. The sum which I have mentioned is a conservative estimate. I would recall, in this respect, that the United States Government alone has received only from petroleum leases on its continental shelf in the last fifteen years the sum of $3.6 thousand million. That is one country in respect of one product alone. Should the international agency be established, and should revenues be approximately at the level which we estimate, the international aid picture will be completely transformed.

10. We also envisage the agency as the body with over-all responsibility for keeping the problem of ocean pollution under control. The useful work of existing specialized bodies such as the International Atomic Energy Agency, the Intergovernmental Oceanographic Commission, the Inter-Governmental Maritime Consultative Organization and others would not be jeopardized. Their collaboration would be solicited and their advice, if endorsed by the agency, could be incorporated in an enforceable code of law for the accepted use of the deep seas and of the ocean floor. We believe that the existence and powers of the suggested agency should be founded on a treaty clearly defining the outer limits of the continental shelf subject to national jurisdiction, and establishing generally acceptable principles with regard to the use of the deep seas and of the ocean floor. We are strongly of the opinion that the following, among other principles, should be incorporated in the proposed treaty:

(a) The sea-bed and the ocean floor, underlying the seas beyond the limits of national jurisdiction as defined in the treaty, are not subject to national appropriation in any manner whatsoever.

(b) The sea-bed and the ocean floor beyond the limits of national jurisdiction shall be reserved exclusively for peaceful purposes.

(c) Scientific research with regard to the deep seas and ocean floor, not directly connected with defence, shall be freely permissible and its results available to all.

(d) The resources of the sea-bed and ocean floor, beyond the limits of national jurisdiction, shall be exploited primarily in the interests of mankind, with particular regard to the needs of poor countries.

(e) The exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction shall be conducted in a manner consistent with the principles and purposes of the United Nations Charter and in a manner not causing unnecessary obstruction of the high seas or serious impairment of the marine environment.

11. There are other important principles which we could mention, but here again I am aware that time presses.

12. These are our long-term objectives. We realize that they cannot be achieved either quickly or easily. We hope, however, that the General Assembly will at its present session adopt a resolution embodying the following concepts:

13. First, the sea-bed and the ocean floor are a common heritage of mankind and should be used and exploited for peaceful purposes and for the exclusive benefit of mankind as a whole. The needs of poor countries, representing that part of mankind which is most in need of assistance, should receive preferential consideration in the event of financial benefits being derived from the exploitation of the sea-bed and ocean floor for commercial purposes.

14. Second, claims to sovereignty over the sea-bed and ocean floor beyond present national jurisdiction, as presently claimed, should be frozen until a clear definition of the continental shelf is formulated.

15. Third, a widely representative but not too numerous body should be established in the first place to consider the security, economic and other implications of the establishment of an international régime over the deep seas and ocean floor beyond the limits of present national jurisdiction; in the second place, to draft a comprehensive treaty to safeguard the international character of the sea-bed and ocean floor beyond present national jurisdiction; and in the third place to provide for the establishment of an international agency which will ensure that national activities undertaken in the deep seas and on the ocean floor will conform to the principles and provisions incorporated in the proposed treaty.

16. We have prepared a draft resolution embodying the points I have mentioned. We are reluctant, however, to submit it officially for consideration by this Committee. The question of the sea-bed and ocean floor beyond present national jurisdiction is of vital importance to all of us. It is also a matter in which the concurrence of all is essential. We are not anxious, therefore, to engage publicly in the usual controversy which often precedes the adoption of a resolution. We do not wish to divide this Committee. We propose instead to appeal to moral concepts, to reason and to well-understood national interest. I would accordingly formally request you, Mr. Chairman, to appoint a small but

widely representative group to consult together and to elaborate a draft resolution which, we would hope, may be acceptable to all, or at least to the great majority of Member States.

17. The CHAIRMAN: The Committee has just heard the detailed and well-documented statement from the representative of Malta on the sea-bed and the ocean floor. With the rich material contained in his statement he was able to make us enjoy a most challenging journey in a new area as yet little known to man. I am sure that the genius of man will not fail to unfold the various mysteries of oceans and seas.

18. The item proposed by Malta invites our serious attention and deserves due consideration by the United Nations and other international organizations. There is no need for me to indicate the complex problems involved. Here is a new arena where scientists, economists, jurists and politicians can and must deploy their untiring efforts and pool their resources to promote international, peaceful co-operation for the purposes of serving humanity and enabling it to use for the betterment of the human race all the gifts which nature can offer. During this session I foresee a most interesting debate on this new item. However, this does not necessarily mean that we should act in haste but, rather, cautiously and in phases. In this way I am sure the international community will proceed in the right direction.

19. In connexion with the proposal made by the representative of Malta, I hope that he will agree with me that the Committee cannot now decide upon this issue, and that he will be kind enough to leave it to the Chair to decide upon it at the proper time and after consultation.

20. If it is so agreed, we shall now begin consideration of the substantive aspects of item 33, the Korean question, with its three sub-items.

Resolution Establishing a Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, December 21, 1968*

* G.A. Res. 2467 A, 23 U.N. GAOR Supp. (No. 18) at 15, U.N. Doc. A/7218 (1968).

2467 (XXIII). Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind

A

The General Assembly,

Recalling the item entitled "Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind",

Having in mind its resolution 2340 (XXII) of 18 December 1967 concerned with the problems arising in the area to which the title of the item refers,

Reaffirming the objectives set forth in that resolution,

Taking note with appreciation of the report prepared by the *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction,[28] keeping in mind the views expressed in the course of its work and drawing upon its experience,

Recognizing that it is in the interest of mankind as a whole to favour the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, for peaceful purposes,

Considering that it is important to promote international co-operation for the exploration and exploitation of the resources of this area,

Convinced that such exploitation should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, taking into account the special interests and needs of the developing countries,

Considering that it is essential to provide, within the United Nations system, a focal point for the elaboration of desirable measures of international co-operation, taking into account alternative actual and potential uses of this area, and for the co-ordination of the activities of international organizations in this regard,

1. *Establishes* a Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, composed of forty-two States;

2. *Instructs* the Committee:

(*a*) To study the elaboration of the legal principles and norms which would promote international co-operation in the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction and ensure the exploitation of their resources for the benefit of mankind, and the economic and other requirements which such a régime should satisfy in order to meet the interests of humanity as a whole;

(*b*) To study the ways and means of promoting the exploitation and use of the resources of this area, and of international co-operation to that end, taking into account the foreseeable development of technology and the economic implications of such exploitation and bearing in mind the fact that such exploitation should benefit mankind as a whole;

(*c*) To review the studies carried out in the field of exploration and research in this area and aimed at intensifying international co-operation and stimulating the exchange and the widest possible dissemination of scientific knowledge on the subject;

(*d*) To examine proposed measures of co-operation to be adopted by the international community in order to prevent the marine pollution which may result from the exploration and exploitation of the resources of this area;

3. *Also calls upon* the Committee to study further, within the context of the title of the item, and taking into account the studies and international negotiations being undertaken in the field of disarmament, the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor without prejudice to the limits which may be agreed upon in this respect;

4. *Requests* the Committee:

(*a*) To work in close co-operation with the specialized agencies, the International Atomic Energy Agency and the intergovernmental bodies dealing with the problems referred to in the present resolution, so as to avoid any duplication or overlapping of activities;

(*b*) To make recommendations to the General Assembly on the questions mentioned in paragraphs 2 and 3 above;

(*c*) In co-operation with the Secretary-General, to submit to the General Assembly reports on its activities at each subsequent session;

5. *Invites* the specialized agencies, the International Atomic Energy Agency and other intergovernmental bodies including the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization to co-operate fully with the Committee in the implementation of the present resolution.

1752nd plenary meeting,
21 December 1968.

[28] *Ibid., Twenty-third Session, agenda item 26, document A/7230.*

"Moratorium" Resolution,
December 15, 1969*

* G.A. Res. 2574 D, 24 U.N. GAOR Supp. (No. 30) at 11, U.N. Doc. A/7630 (1969).

D

The General Assembly,

Recalling its resolution 2467 A (XXIII) of 21 December 1968 to the effect that the exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, taking into account the special interests and needs of the developing countries,

Convinced that it is essential, for the achievement of this purpose, that such activities be carried out under an international régime including appropriate international machinery,

Noting that this matter is under consideration by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction,

Recalling its resolution 2340 (XXII) of 18 Decemcember 1967 on the importance of preserving the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction from actions and uses which might be detrimental to the common interests of mankind,

Declares that, pending the establishment of the aforementioned international régime:

(*a*) States and persons, physical or juridical, are bound to refrain from all activities of exploitation of the resources of the area of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction;

(*b*) No claim to any part of that area or its resources shall be recognized.

1833rd plenary meeting,
15 December 1969.

Montevideo Declaration on the Law of the Sea, May 8, 1970*

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/16 at 586 (1974).

MONTEVIDEO DECLARATION ON THE LAW OF THE SEA

(8 May 1970)

The States represented at the Montevideo Meeting on the Law of the Sea,

Recognizing that there exists a geographic, economic and social link between the sea, the land, and its inhabitant, Man, which confers on the coastal peoples legitimate priority in the utilization of the natural resources provided by their marine environment,

Recognizing likewise that any norms governing the limits of national sovereignty and jurisdiction over the sea, its soil and its subsoil, and the conditions for the exploitation of their resources, must take account of the geographical realities of the coastal States and the special needs and economic and social responsibilities of developing States,

Considering that scientific and technological advances in the exploitation of the natural wealth of the sea have brought in their train the danger of plundering its living resources through injudicious or abusive harvesting practices or through the disturbance of ecological conditions, a fact which supports the right of coastal States to take the necessary measures to protect those resources within areas of jurisdiction more extensive than has traditionally been the case and to regulate within such areas any fishing or aquatic hunting, carried out by vessels operating under the national or a foreign flag, subject to national legislation and to agreements concluded with other States,

That a number of declarations, resolutions and treaties, many of them inter-American, and multilateral declarations and agreements concluded between Latin American States, embody legal principles which justify the right of States to extend their sovereignty and jurisdiction to the extent necessary to conserve, develop and exploit the natural resources of the maritime area adjacent to their coasts, its soil and its subsoil,

That, in accordance with those legal principles the signatory States have, by reason of conditions peculiar to them, extended their sovereignty or exclusive rights of jurisdiction over the maritime area adjacent to their coasts, its soil and its subsoil to a distance of 200 nautical miles from the baseline of the territorial sea,

/...

That the implementation of measures to conserve the resources of the sea, its soil and its subsoil by coastal States in the areas of maritime jurisdiction adjacent to their coasts ultimately benefits mankind, which possesses in the oceans a major source of means for its subsistence and development,

That the sovereign right of States to their natural resources has been recognized and reaffirmed by many resolutions of the General Assembly and other United Nations bodies,

That it is advisable to embody in a joint declaration the principles emanating from the recent movement towards the progressive development of international law, which is receiving ever-increasing support from the international community,

Declare the following to be Basic Principles of the Law of the Sea:

1. The right of coastal States to avail themselves of the natural resources of the sea adjacent to their coasts and of the soil and subsoil thereof in order to promote the maximum development of their economies and to raise the levels of living of their peoples;

2. The right to establish the limits of their maritime sovereignty and jurisdiction in accordance with their geographical and geological characteristics and with the factors governing the existence of marine resources and the need for their rational utilization;

3. The right to explore, to conserve the living resources of the sea adjacent to their territories, and to establish regulations for fishing and aquatic hunting;

4. The right to explore, conserve and exploit the natural resources of their continental shelves to where the depth of the superjacent waters admits of the exploitation of such resources;

5. The right to explore, conserve and exploit the natural resources of the soil and subsoil of the sea-bed and ocean floor up to the limit within which the State exercises its jurisdiction over the sea;

6. The right to adopt, for the aforementioned purposes, regulatory measures applicable in areas under their maritime sovereignty and jurisdiction, without prejudice to freedom of navigation by ships and overflying by aircraft of any flag.

/...

Furthermore, the signatory States, encouraged by the results of this Meeting, express their intention to co-ordinate their future action with a view to defending effectively the principles embodied in this Declaration.

This Declaration shall be known as the "Montevideo Declaration on the Law of the Sea".

Statement by President Nixon on United States
Policy for the Sea-Bed,
May 23, 1970*

* 62 U.S. Dept. State Bull. 737 (1970).

United States Policy for the Seabed

STATEMENT BY PRESIDENT NIXON [1]

The nations of the world are now facing decisions of momentous importance to man's use of the oceans for decades ahead. At issue is whether the oceans will be used rationally and equitably and for the benefit of mankind or whether they will become an arena of unrestrained exploitation and conflicting jurisdictional claims in which even the most advantaged states will be losers.

The issue arises now—and with urgency—because nations have grown increasingly conscious of the wealth to be exploited from the seabeds and throughout the waters above and because they are also becoming apprehensive about ecological hazards of unregulated use of the oceans and seabeds. The stark fact is that the law of the sea is inadequate to meet the needs of modern technology and the concerns of the international community. If it is not modernized multilaterally, unilateral action and international conflict are inevitable.

This is the time, then, for all nations to set about resolving the basic issues of the future regime for the oceans—and to resolve it in a way that redounds to the general benefit in the era of intensive exploitation that lies ahead. The United States, as a major maritime power and a leader in ocean technology to unlock the riches of the ocean, has a special responsibility to move this effort forward.

Therefore, I am today proposing that all nations adopt as soon as possible a treaty under which they would renounce all national claims over the natural resources of the seabed beyond the point where the high seas reach a depth of 200 meters (218.8 yards) and would agree to regard these resources as the common heritage of mankind.

The treaty should establish an international regime for the exploitation of seabed resources beyond this limit. The regime should provide for the collection of substantial mineral royalties to be used for international community purposes, particularly economic assistance to developing countries. It should also establish general rules to prevent unreasonable interference with other uses of the ocean, to protect the ocean from pollution, to assure the integrity of the investment necessary for such exploitation, and to provide for peaceful and compulsory settlement of disputes.

I propose two types of machinery for authorizing exploitation of seabed resources beyond a depth of 200 meters.

First, I propose that coastal nations act as trustees for the international community in an international trusteeship zone comprised of the continental margins beyond a depth of 200 meters off their coasts. In return, each coastal state would receive a share of the international revenues from the zone in which it acts as trustee and could impose additional taxes if these were deemed desirable.

As a second step, agreed international machinery would authorize and regulate exploration and use of seabed resources beyond the continental margins.

The United States will introduce specific proposals at the next meeting of the United Nations Seabeds Committee to carry out these objectives.

Although I hope agreement on such steps can be reached quickly, the negotiation of such a complex treaty may take some time. I do not, however, believe it is either necessary or desirable to try to halt exploration and exploitation

[1] Issued on May 23 (White House press release).

of the seabeds beyond a depth of 200 meters during the negotiating process.

Accordingly, I call on other nations to join the United States in an interim policy. I suggest that all permits for exploration and exploitation of the seabeds beyond 200 meters be issued subject to the international regime to be agreed upon. The regime should accordingly include due protection for the integrity of investments made in the interim period. A substantial portion of the revenues derived by a state from exploitation beyond 200 meters during this interim period should be turned over to an appropriate international development agency for assistance to developing countries. I would plan to seek appropriate congressional action to make such funds available as soon as a sufficient number of other states also indicate their willingness to join this interim policy.

I will propose necessary changes in the domestic import and tax laws and regulations of the United States to assure that our own laws and regulations do not discriminate against U.S. nationals operating in the trusteeship zone off our coast or under the authority of the international machinery to be established.

It is equally important to assure unfettered and harmonious use of the oceans as an avenue of commerce and transportation and as a source of food. For this reason the United States is currently engaged with other states in an effort to obtain a new law-of-the-sea treaty. This treaty would establish a 12-mile limit for territorial seas and provide for free transit through international straits. It would also accommodate the problems of developing countries and other nations regarding the conservation and use of the living resources of the high seas.

I believe that these proposals are essential to the interests of all nations, rich and poor, coastal and landlocked, regardless of their political systems. If they result in international agreements, we can save over two-thirds of the earth's surface from national conflict and rivalry, protect it from pollution, and put it to use for the benefit of all. This would be a fitting achievement for this 25th anniversary year of the United Nations.

Lima Declaration on the Law of the Sea, August 8, 1970*

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/16/ at 587 (1974).

2. DECLARATION AND RESOLUTIONS ADOPTED AT THE LATIN AMERICAN MEETING ON ASPECTS OF THE LAW OF THE SEA, HELD AT LIMA FROM 4 TO 8 AUGUST 1970[a]

(a) DECLARATION OF THE LATIN AMERICAN STATES ON THE LAW OF THE SEA OF 8 AUGUST 1970[b]

The Latin American Meeting on Aspects of the Law of the Sea,

Considering:

That there is a geographical, economic and social link between the sea, the land, and man who inhabits it, which confers on coastal populations a legitimate priority right to utilize the natural resources of their maritime environment;

That in consequence of that priority relationship, the right has been recognized of coastal States to establish the extent of their maritime sovereignty or jurisdiction in accordance with reasonable criteria, having regard to their geographical, geological and biological situation and their socio-economic needs and responsibilities;

That the dangers and damage resulting from indiscriminate and abusive practices in the extraction of marine resources, among other reasons, have led an important group of coastal States to extend the limits of their sovereignty or jurisdiction over the sea, with due respect for freedom of navigation and flight in transit for ships and aircraft, without distinction as to flag;

That certain forms of utilization of the marine environment have likewise been giving rise to grave dangers of contamination of the waters and disturbance of the ecological balance, to combat which it is necessary that the coastal States should take steps to protect the health and interests of their populations;

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[a] Ministerio de Relaciones Exteriores del Perú, *Instrumentos nacionales e internacionales sobre derecho del mar* (Lima, 1971), pp. 293-307. Texts also circulated as document A/AC.138/28. Translation by the Secretariat of the United Nations.

[b] The States which voted in favour of the Declaration were: Argentina, Brazil, Colombia, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Uruguay. Bolivia, Paraguay and Venezuela voted against it; Trinidad and Tobago abstained.

That the development of scientific research in the marine environment requires the widest possible co-operation among States, so that all may contribute and share in its benefits, without prejudice to the authorization, supervision and participation of the coastal State when such research is carried out within the limits of its sovereignty or jurisdiction;

That in declarations, resolutions and treaties, especially inter-American instruments, and also in unilateral declarations and in agreements signed between Latin American States legal principles are embodied which justify the aforementioned rights;

That the sovereign right of States over their natural resources has been recognized and reaffirmed in numerous resolutions of the General Assembly and other United Nations bodies;

That in the exercise of these rights the respective rights of other neighbouring coastal States on the same sea must be mutually respected; and

That it is desirable to assemble and reaffirm the foregoing concepts in a joint declaration which will take into account the plurality of existing legal régimes on maritime sovereignty or jurisdiction in Latin American countries.

Declares as common principles of the Law of the Sea:

1. The inherent right of the coastal State to explore, conserve and exploit the natural resources of the sea adjacent to its coasts and the soil and subsoil thereof, likewise of the Continental Shelf and its subsoil, in order to promote the maximum development of its economy and to raise the level of living of its people;

2. The right of the coastal State to establish the limits of its maritime sovereignty or jurisdiction in accordance with reasonable criteria, having regard to its geographical, geological and biological characteristics, and the need to make rational use of its resources;

3. The right of the coastal State to take regulatory measures for the aforementioned purposes, applicable in the areas of its maritime sovereignty or jurisdiction, without prejudice to freedom of navigation and flight in transit of ships and aircraft, without distinction as to flag;

4. The right of the coastal State to prevent contamination of the waters and other dangerous and harmful effects that may result from the use, exploration or exploitation of the area adjacent to its coasts;

5. The right of the coastal State to authorize, supervise and participate in all scientific research activities which may be carried out in the maritime zones subject to its sovereignty or jurisdiction, and to be informed of the findings and the results of such research.

This declaration shall be known as the "Declaration of the Latin American States on the Law of the Sea".

Lusaka Declaration on Peace, Independence, Development Co-operation and Democratization of International Relations and Resolutions of the Third Conference of Heads of State or Government of Non-aligned Countries, September 8-10, 1970*
(excerpt)

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/16 at 593 (1974).

LUSAKA DECLARATION ON PEACE, INDEPENDENCE, DEVELOPMENT CO-OPERATION AND DEMOCRATIZATION OF INTERNATIONAL RELATIONS AND RESOLUTIONS OF THE THIRD CONFERENCE OF HEADS OF STATE OR GOVERNMENT OF NON-ALIGNED COUNTRIES

(8-10 September 1970)

(excerpt)

STATEMENT ON THE SEA-BED

The Conference of Heads of State and Government is aware that developing technology is making the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction accessible and exploitable for scientific, economic, military and other purposes. It is convinced that this area should be used exclusively for peaceful purposes and that the potential wealth of the area and its resources should be developed and used for the benefit of mankind as a whole.

The Conference is convinced that rapid progress in this direction is essential if conflict and tension are to be removed from the area and if its resources are to be used for the benefit of mankind. In this connexion the Conference regrets to note that the United Nations Committee on the Sea-Bed has not yet been able to submit a draft Declaration to the General Assembly and expresses the hope that the General Assembly will still be able to adopt such a Declaration to mark the celebration of the twenty-fifth anniversary of the United Nations. In the view of the Conference of Heads of State and Government, such a Declaration should, inter alia, reflect the following basic principles:

/...

(1) The sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as the resources of the area, are the common heritage of mankind.

(2) The area shall not be subject to national appropriation by any means. No State shall exercise or claim sovereign right over any part of it. Nor shall any State or person claim, exercise or acquire rights with respect to the area or its resources incompatible with these basic principles and the international régime to be established.

(3) The area shall be used exclusively for peaceful purposes.

(4) The exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal, and taking into account the special needs and interests of the developing countries.

(5) On the basis of these principles an international régime, including appropriate international machinery to give effect to its provisions, should be established by an international treaty. The régime should provide for the orderly development and rational management of the area and its resources and ensure the equitable sharing by the international community in the benefits derived therefrom. It should also make adequate provisions to minimize fluctuation of prices of land minerals and raw materials that may result from such activities.

The Conference of Heads of State and Government also supports the convening at an early date of a conference on the Law of the Sea, after due preparations have been made for it by a preparatory committee, to review the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of living resources of the high seas, particularly in order to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond national jurisdiction, in the light of the international régime to be established for that area. These questions should be dealt with together in a comprehensive manner rather than piecemeal.

Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof Beyond the Limits of National Jurisdiction, December 17, 1970*

* G.A. Res. 2749, 25 U.N. GAOR Supp. (No. 28) at 24, U.N. Doc A/8097 (1977).

2749 (XXV). Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction

The General Assembly,

Recalling its resolutions 2340 (XXII) of 18 December 1967, 2467 (XXIII) of 21 December 1968 and 2574 (XXIV) of 15 December 1969, concerning the area to which the title of the item refers,

Affirming that there is an area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, the precise limits of which are yet to be determined,

Recognizing that the existing legal régime of the high seas does not provide substantive rules for regulating the exploration of the aforesaid area and the exploitation of its resources,

Convinced that the area shall be reserved exclusively for peaceful purposes and that the exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole,

Believing it essential that an international régime applying to the area and its resources and including appropriate international machinery should be established as soon as possible,

Bearing in mind that the development and use of the area and its resources shall be undertaken in such a manner as to foster the healthy development of the world economy and balanced growth of international trade, and to minimize any adverse economic effects caused by the fluctuation of prices of raw materials resulting from such activities,

Solemnly declares that:

1. The sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind.

2. The area shall not be subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.

3. No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international régime to be established and the principles of this Declaration.

4. All activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international régime to be established.

5. The area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination, in accordance with the international régime to be established.

6. States shall act in the area in accordance with the applicable principles and rules of international law, including the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970,[18] in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding.

7. The exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal, and taking into particular consideration the interests and needs of the developing countries.

8. The area shall be reserved exclusively for peaceful purposes, without prejudice to any measures which have been or may be agreed upon in the context of international negotiations undertaken in the field of disarmament and which may be applicable to a broader area. One or more international agreements shall be concluded as soon as possible in order to implement effectively this principle and to constitute a step towards the exclusion of the sea-bed, the ocean floor and the subsoil thereof from the arms race.

9. On the basis of the principles of this Declaration, an international régime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character, generally agreed upon. The régime shall, *inter alia*, provide for the orderly and safe development and rational management of the area and its resources and for expanding opportunities in the use thereof, and ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal.

10. States shall promote international co-operation in scientific research exclusively for peaceful purposes:

(*a*) By participation in international programmes and by encouraging co-operation in scientific research by personnel of different countries;

(*b*) Through effective publication of research programmes and dissemination of the results of research through international channels;

(*c*) By co-operation in measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes.

No such activity shall form the legal basis for any claims with respect to any part of the area or its resources.

11. With respect to activities in the area and acting in conformity with the international régime to be established, States shall take appropriate measures for and shall co-operate in the adoption and implementation of international rules, standards and procedures for, *inter alia*:

(*a*) The prevention of pollution and contamination, and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment;

[18] Resolution 2625 (XXV).

(*b*) The protection and conservation of the natural resources of the area and the prevention of damage to the flora and fauna of the marine environment.

12. In their activities in the area, including those relating to its resources, States shall pay due regard to the rights and legitimate interests of coastal States in the region of such activities, as well as of all other States, which may be affected by such activities. Consultations shall be maintained with the coastal States concerned with respect to activities relating to the exploration of the area and the exploitation of its resources with a view to avoiding infringement of such rights and interests.

13. Nothing herein shall affect:

(*a*) The legal status of the waters superjacent to the area or that of the air space above those waters;

(*b*) The rights of coastal States with respect to measures to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the area, subject to the international régime to be established.

14. Every State shall have the responsibility to ensure that activities in the area, including those relating to its resources, whether undertaken by governmental agencies, or non-governmental entities or persons under its jurisdiction, or acting on its behalf, shall be carried out in conformity with the international régime to be established. The same responsibility applies to international organizations and their members for activities undertaken by such organizations or on their behalf. Damage caused by such activities shall entail liability.

15. The parties to any dispute relating to activities in the area and its resources shall resolve such dispute by the measures mentioned in Article 33 of the Charter of the United Nations and such procedures for settling disputes as may be agreed upon in the international régime to be established.

1933rd plenary meeting,
17 December 1970.

Resolution Convening a Conference on the Law of the Sea, December 17, 1970*

* G.A. Res. 2750 C, 25 U.N. GAOR Supp. (No. 28) at 26, U.N. Doc. A/8097 (1971).

C

The General Assembly,

Recalling its resolutions 798 (VIII) of 7 December 1953, 1105 (XI) of 21 February 1957 and 2574 A (XXIV) of 15 December 1969,

Recalling further its resolutions 2340 (XXII) of 18 December 1967, 2467 (XXIII) of 21 December 1968 and 2574 (XXIV) of 15 December 1969,

Taking into account the results of the consultations undertaken by the Secretary-General[42] in accordance with paragraph 1 of resolution 2574 A (XXIV), which indicate widespread support for the holding of a comprehensive conference on the law of the sea,

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole,

Noting that the political and economic realities, scientific development and rapid technological advances of the last decade have accentuated the need for early and progressive development of the law of the sea, in a framework of close international co-operation,

Having regard to the fact that many of the present States Members of the United Nations did not take part in the previous United Nations conferences on the law of the sea,

Convinced that the elaboration of an equitable international régime for the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction would facilitate agreement on the questions to be examined at such a conference,

Affirming that such agreements on those questions should seek to accommodate the interests and needs of all States, whether land-locked or coastal, taking into account the special interests and needs of the developing countries, whether land-locked or coastal,

Having considered the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction,[43]

Convinced that a new conference on the law of the sea would have to be carefully prepared to ensure its success and that the preparatory work ought to start as soon as possible after the conclusion of the twenty-fifth session of the General Assembly, drawing on the experience already accumulated in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and using fully the opportunity provided by the United Nations Conference on the Human Environment, to be held in 1972, to further its work,

1. *Notes with satisfaction* the progress made so far towards the elaboration of the international régime for the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction through the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, adopted by the General Assembly on 17 December 1970;[44]

2. *Decides* to convene in 1973, in accordance with the provisions of paragraph 3 below, a conference on the law of the sea which would deal with the establishment of an equitable international régime—including an international machinery—for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, a precise definition of the area, and a broad range of related issues including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, *inter alia*, the prevention of pollution) and scientific research;

3. *Decides further* to review, at its twenty-sixth and twenty-seventh sessions, the reports of the Committee referred to in paragraph 6 below on the progress of its preparatory work with a view to determining the precise agenda of the conference on the law of the sea, its definitive date, location and duration, and related arrangements; if the General Assembly, at its twenty-seventh session, determines the progress of the preparatory work of the Committee to be insufficient, it may decide to postpone the conference;

4. *Reaffirms* the mandate of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction set forth in General Assembly resolution 2467 A (XXIII) as supplemented by the present resolution;

5. *Decides* to enlarge the Committee by forty-four members, appointed by the Chairman of the First Committee in consultation with regional groups and taking

[40] United Nations Conference on the Law of the Sea. *Official Records*, vol. I: *Preparatory Documents* (United Nations publication, Sales No.: 58.V.4, vol. I), document A/CONF.13/29 and Add.1.

[41] See resolution 2750 C (XXV), para. 5, below.

[42] See A/7925 and Add.1-3.

[43] *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21* (A/8021).

[44] Resolution 2749 (XXV).

into account equitable geographical representation thereon;

6. *Instructs* the enlarged Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction to hold two sessions in Geneva, in March and in July-August 1971, in order to prepare for the conference on the law of the sea draft treaty articles embodying the international régime—including an international machinery—for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, taking into account the equitable sharing by all States in the benefits to be derived therefrom, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked, on the basis of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, and a comprehensive list of subjects and issues relating to the law of the sea referred to in paragraph 2 above, which should be dealt with by the conference, and draft articles on such subjects and issues;

7. *Authorizes* the Committee to establish such subsidiary organs as it deems necessary for the efficient performance of its functions, bearing in mind the scientific, economic, legal and technical aspects of the issues involved;

8. *Requests* the Committee to prepare, as appropriate, reports to the General Assembly on the progress of its work;

9. *Requests* the Secretary-General to circulate those reports to Member States and to observers to the United Nations for their comments and observations;

10. *Decides* to invite other Member States which are not appointed to the Committee to participate as observers and to be heard on specific points;

11. *Requests* the Secretary-General to render the Committee all the assistance it may require in legal, economic, technical and scientific matters, including the provision of relevant records of the General Assembly and specialized agencies for the efficient performance of its functions;

12. *Decides* that the enlarged Committee, as well as its subsidiary organs, shall have summary records of its proceedings;

13. *Invites* the United Nations Educational, Scientific and Cultural Organization and its Intergovernmental Oceanographic Commission, the Food and Agriculture Organization of the United Nations and its Committee on Fisheries, the World Health Organization, the Inter-Governmental Maritime Consultative Organization, the World Meteorological Organization, the International Atomic Energy Agency and other intergovernmental bodies and specialized agencies concerned to co-operate fully with the enlarged Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in the implementation of the present resolution, in particular by preparing such scientific and technical documentation as the Committee may request.

1933rd plenary meeting,
17 December 1970.

Declaration of Santo Domingo, June 9, 1972*

* U.N. Doc. A/AC.138/80 (1972); U.N. Legislative Series, U.N. Doc ST/LEG/SER.B/16 at 599 (1974).

2. Text of the Declaration of Santo Domingo approved by the meeting of Ministers of the Specialized Conference of the Caribbean Countries on Problems of the Sea, held on 7 June 1972*

(Circulated as a Committee document pursuant to the decision of the Committee at its 78th meeting, on 20 July 1972)

THE SPECIALIZED CONFERENCE OF THE CARIBBEAN COUNTRIES ON PROBLEMS OF THE SEA

RECALLING:

That the International American Conferences held in Bogotá in 1948 and in Caracas in 1954, recognized that the peoples of the Americas depend on the natural resources as a means of subsistence, and proclaimed the right to protect, conserve and develop those resources, as well as the right to ensure their use and utilization.

That the "Principles of Mexico on the Legal Régime of the Sea" which were adopted in 1956 and which were recognized "as the expression of the juridical conscience of the Continent and as applicable, by the American States", established the basis for the evolution of the Law of the Sea which culminated, that year, with the enunciation by the Specialized Conference in the Capital of the Dominican Republic of concepts which deserved endorsement by the United Nations Conference on the Law of the Sea, Geneva, 1958.

Considering:

That the General Assembly of the United Nations, in its resolution 2750 (XXV) decided to convoke in 1973 a Conference on the Law of the Sea, and recognized "the need for early and progressive development of the law of the sea";

That it is desirable to define, through universal norms, the nature and scope of the rights of States, as well as their obligations and responsibilities relating to the various oceanic zones, without prejudice to regional or subregional agreements, based on the said norms;

That the Caribbean countries, on account of their peculiar conditions, require special criteria for the application of the Law of the Sea, while at the same time the co-ordination of Latin America is necessary for the purpose of joint action in the future;

That the economic and social development of all the peoples and the assurance of equal opportunities for all human beings are essential conditions for peace;

That the renewable and non-renewable resources of the sea contribute to improve the standard of living of the developing countries and to stimulate and accelerate their progress;

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* Originally issued as document A/AC.138/80.

That such resources are not inexhaustible since even the living species may be depleted or extinguished as a consequence of irrational exploitation or pollution;

That the law of the sea should harmonize the needs and interests of States and those of the International Community;

That international co-operation is indispensable to ensure the protection of the marine environment and its better utilization;

That as Santo Domingo is the point of departure of the American civilization, as well as the site of the First Conference of the Law of the Sea in Latin America in 1956, it is historically significant that the new principles to advance the progressive development of the Law of the Sea be proclaimed in this city.

Formulate the following Declaration of Principles:

TERRITORIAL SEA

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to an area of the sea adjacent to its coast, designated as the territorial sea, including the superjacent air space as well as the subjacent sea-bed and subsoil.

2. The breadth of the territorial sea and the manner of its delimitation should be the subject of an international agreement, preferably of a world-wide scope. In the meantime, each State has the right to establish the breadth of its territorial sea up to a limit of 12 nautical miles to be measured from the applicable baseline.

3. Ships of all States, whether coastal or not, should enjoy the right of innocent passage through the territorial sea, in accordance with International Law.

PATRIMONIAL SEA

1. The coastal State has sovereign rights over the renewable and non-renewable natural resources, which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea.

2. The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea, as well as the right to adopt the necessary measures to prevent marine pollution and to ensure its sovereignty over the resources of the area.

3. The breadth of this zone should be the subject of an international agreement, preferably of a world-wide scope. The whole of the area of both the territorial sea and the patrimonial sea, taking into account geographic circumstances, should not exceed a maximum of 200 nautical miles.

4. The delimitation of this zone between two or more States, should be carried out in accordance with the peaceful procedures stipulated in the Charter of the United Nations.

5. In this zone ships and aircraft of all States, whether coastal or not, should enjoy the right of freedom of navigation and overflight with no restrictions other than those resulting from the exercise by the Coastal State of its rights within the area. Subject only to these limitations, there will also be freedom for the laying of submarine cables and pipelines.

CONTINENTAL SHELF

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The continental shelf includes the sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits the exploitation of the natural resources of the said areas.

3. In addition, the States participating in this Conference consider that the Latin American Delegations in the Committee on the Sea-bed and Ocean Floor of the United Nations should promote a study concerning the advisability and timing for the establishment of precise outer limits of the continental shelf taking into account the outer limits of the continental rise.

4. In that part of the continental shelf covered by the patrimonial sea the legal régime provided for this area shall apply. With respect to the part beyond the patrimonial sea, the régime established for the continental shelf by International Law shall apply.

INTERNATIONAL SEA-BED

1. The sea-bed and its resources, beyond the patrimonial sea and beyond the continental shelf not covered by the former, are the common heritage of mankind, in accordance with the Declaration adopted by the General Assembly of the United Nations in resolution 2749 (XXV) of December 1970.

2. This area shall be subject to the régime to be established by international agreement, which should create an international authority empowered to undertake all activities in the area, particularly the exploration, exploitation, protection of the marine environment and scientific research, either on its own, or through third parties, in the manner and under the conditions that may be established by common agreement.

HIGH SEAS

That waters situated beyond the outer limits of the patrimonial sea constitute an international area designated as high seas, in which there exists freedom of navigation, of overflight and of laying submarine cables and pipelines. Fishing in this zone should be neither unrestricted nor indiscriminate and should be the subject of adequate international regulation, preferably of world-wide scope and general acceptance.

MARINE POLLUTION

1. Is the duty of every State to refrain from performing acts which may pollute the sea and its sea-bed, either inside or outside its respective jurisdiction?

2. The international responsibility of physical or juridical persons damaging the marine environment is recognized. With regard to this matter the drawing up of an international agreement, preferably of a world-wide scope, is desirable.

REGIONAL CO-OPERATION

1. Recognizing the need for the countries in the area to unite their efforts and adopt a common policy vis-à-vis the problems peculiar to the Caribbean Sea relating mainly to scientific research, pollution of the marine environment, conservation, exploration, safeguarding and exploitation of the resources of the sea;

2. Decides to hold periodic meetings, if possible once a year, of senior governmental officials, for the purpose of co-ordinating and harmonizing national efforts and policies in all aspects of oceanic space with a view to ensuring maximum utilization of resources by all the peoples of the region.

The first meeting may be convoked by any of the States participating in this Conference.

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Finally, the feelings of peace and respect for international law which have always inspired the Latin American countries are hereby reaffirmed. It is within this spirit of harmony and solidarity, and for the strengthening of the norms of the inter-American system, that the principles of this document shall be realized.

The present Declaration shall be called: "Declaration of Santo Domingo".

Done in Santo Domingo de Guzmán, Dominican Republic, this ninth day of June one thousand nine hundred and seventy-two (1972), in a single copy in the English, French and Spanish languages, each text being equally authentic.

Conclusions of the African States Regional Seminar on the Law of the Sea, Yaounde June 20-30, 1972*

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/16 at 601 (1974).

3. Conclusions in the General Report of the African States Regional Seminar on the Law of the Sea, held in Yaoundé, from 20-30 June 1972*

(Circulated as a Committee document pursuant to the decision of the Committee at its 78th meeting, on 20 July 1972)

After examining the reports, conclusions and recommendations of the various working groups, which were discussed and amended, the seminar adopted the following recommendations:

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* Originally issued as document A/AC.138/79.

I. (a) On the territorial sea, the contiguous zone and the high seas:

(1) The African States have the right to determine the limits of their jurisdiction over the Seas adjacent to their coasts in accordance with reasonable criteria which particularly take into account their own geographical, geological, biological and national security factors.

(2) The Territorial Sea should not extend beyond a limit of 12 nautical miles.

(3) The African States have equally the right to establish beyond the Territorial Sea an Economic Zone over which they will have an exclusive jurisdiction for the purpose of control regulation and national exploitation of the living resources of the Sea and their reservation for the primary benefit of their peoples and their respective economies, and for the purpose of the prevention and control of pollution.

The establishment of such a zone shall be without prejudice to the following freedoms: Freedom of navigation, freedom of overflight, freedom to lay submarine cables and pipelines.

(4) The exploitation of the living resources within the economic zone should be open to all African States both land-locked and near land-locked, provided that the enterprises of these States desiring to exploit these resources are effectively controlled by African capital and personnel.

To be effective, the rights of land-locked States, shall be complemented by the right of transit.

These rights shall be embodied in multilateral or regional or bilateral agreements.

(5) The limit of the economic zone shall be fixed in nautical miles in accordance with regional considerations taking duly into account the resources of the region and the rights and interests of the land-locked and near land-locked States, without prejudice to limits already adopted by some States within the region.

(6) The limits between two or more States shall be fixed in conformity with the United Nations Charter and that of the Organization of African Unity.

(7) The African States shall mutually recognize their existing historic rights.

However certain participants expressed reservations as to a 12 mile limit for the territorial sea and as to fixing a precise limit.

On recommendation No. 5 others thought that the general principles of International Law should be referred to in order to fix maritime limits.

(b) On "Historic Rights" and "Historic Bays":

(1) That the "historic rights" acquired by certain neighbouring African States in a part of the Sea which may fall within the exclusive jurisdiction of another State should be recognized and safeguarded.

(2) The impossibility for an African State to provide evidence of an uninterrupted claim over a historic bay should not constitute an obstacle to the recognition of the rights of that State over such a bay.

Adopted without reservation.

II. On the biological resources of the sea, fishing and maritime pollution,

Recommendations

The Participants:

Recommend to African States to extend their sovereignty over all the resources of the high sea adjacent to their Territorial Sea within an economic zone to be established and which will include at least the continental shelf.

Call upon all African States to uphold the principle of this extension at the next International Conference on the Law of the Sea.

Suggest that African States should promote a new policy of co-operation for the development of fisheries so as to increase their participation in the exploitation of marine resources.

Recommend to African States to take all measures to fight pollution and in particular:

- by establishing national laws to protect their countries from pollution;
- by advocating in international organizations the conclusion of appropriate agreements on control measures against pollution.

Adopted without reservation.

III. On the continental shelf and the sea-bed:

Recommendations

(1) The Economic Zone embodies all economic resources comprising both living and non-living resources such as oil, natural gas and other mineral resources.

(2) Political and strategic aspects of the sea-bed were considered. The need to use the sea-bed exclusively for peaceful purposes presupposes the definition of a legal régime to ensure greater security of the sea while guaranteeing the respect of the rights of coastal States.

(3) The participants considered that natural resources outside the Economic Zone should be managed by the international authority.

(4) The participants stressed the necessity for the Agency to function democratically and the need for adequate continental representation therein. Representation should not be based on the sole criterion of maritime strength and account should be taken of the existing imbalance between developed and developing countries.

(5) The Seminar categorically rejected the veto system and considered the system of weighted voting undemocratic.

IV. Concerning settlement to the conflicts which may arise between coastal States and the international community.

Recommendations

In the light of their discussions the Seminar approves the principle of setting up an international governing body to manage the common heritage outside the limits of national jurisdiction. It considers that this body must conform with the spirit of the resolution which provided for its creation, and for this reason must be structured and operate in such a way that the developing countries should be the primary controllers and beneficiaries.

The Seminar recommends that the international body should carry out its wishes on the Sea-bed and subsoil for the benefit of the international community.

Therefore, it considers that its action will depend on the desire of States to extend their limits of jurisdiction. The Seminar noted that it was important for this body to avoid being a simple administrative apparatus issuing licences and distributing royalties.

It considers that to be efficient the International body must seek the best ways and means to involve the business concerns of developing countries in exploiting the resources available in its zone of using these resources to promote the progress of mankind in the developing countries so as to correct the grave imbalance between the nations.

The Seminar considers that all these objectives can be achieved if the participation of developing countries in the planning, setting up, and operation of this body is assured without restriction.

Adopted unanimously:

The participants expressed the unanimous wish that these recommendations should be notified to all African States and to the OAU.

Declaration of the Organization of African Unity on the Issues of the Law of the Sea, 1973*

* 3 UNCLOS III Official Records 63, U.N. Doc. 62/33 (1973).

DOCUMENT A/CONF.62/33

Declaration of the Organization of African Unity on the issues of the Law of the Sea

[*Original: French*]
[*19 July 1974*]

The Council of Ministers of the Organization of African Unity, meeting in its Twenty-first Ordinary Session in Addis Ababa, Ethiopia, from 17 to 24 May 1973, and in its Twenty-third Ordinary Session in Mogadiscio, Somalia, from 6 to 11 June 1974,

Considering that in accordance with the charter of the Organization of African Unity, it is our responsibility to harness the natural and human resources of our continent for the total advancement of our peoples in all spheres of human endeavour,

Recalling resolutions CM/Res. 245 (XVII) and CM/Res. 250 (XVII) of the Seventeenth Session of the Council of Ministers of OAU on the Permanent Sovereignty of African Countries over their natural resources,

Recalling the OAU Council of Ministers resolution CM/Res 289 (XIX) and decision No. CM/Dec. 236 (XX),

Recalling also resolution 2750 (XXV) and 3029 A (XXVII) of the United Nations General Assembly,

Aware that many African countries did not participate in the 1958 and 1960 Law of the Sea Conferences,

Aware that Africa, on the basis of solidarity, needs to harmonize her position on various issues before the forthcoming United Nations Conference on the Law of the Sea due to be held at Caracas, Venezuela, in 1974, and to benefit therefrom,

Recognizing that the marine environment and the living and mineral resources therein are of vital importance to humanity and are not unlimited,

Noting that these marine resources are currently being exploited by only a few States for the economic benefit of their people,

Convinced that African countries have a right to exploit the marine resources around the African continent for the economic benefit of African peoples,

Recognizing that the capacity of the sea to assimilate wastes and render them harmless and its ability to regenerate natural resources are not unlimited,

Noting the potential of the sea for use for non-peaceful purposes, and convinced that the submarine environment should be used exclusively for peaceful purposes,

Recognizing the position of archipelagic States,

Recognizing that Africa has many disadvantaged States including those that are land-locked or shelf-locked and those whose access to ocean space depends exclusively on passage through straits,

Noting the recent trends in the extension of coastal States' jurisdictions over the area adjacent to their coasts,

Having noted the positions and the views of other States and regions,

Declares:

A

Territorial sea and straits

1. Pending the successful negotiation and general adoption of a new régime to be established in these areas by the forthcoming United Nations Conference on the Law of the Sea, this position prejudices neither the present limits of the territorial sea of any State nor the existing rights of States;

2. That the African States endorse the right of access to and from the sea by the land-locked countries, and the inclusion of such a provision in the universal treaty to be negotiated at the Law of the Sea Conference;

3. That the African States in view of the importance of international navigation through straits used as such endorse the régime of innocent passage in principle but recognize the need for further precision of the régime;

4. That the African States endorse the principle that the baselines of any archipelagic State may be drawn by connecting the outermost points of the outermost islands of the archipelago for the purposes of determining the territorial sea of the archipelagic State.

B

Régime of islands

5. That the African States recognize the need for a proper determination of the nature of maritime spaces of islands and recommend that such determination should be made according to equitable principles taking account of all relevant factors and special circumstances including:

(*a*) The size of islands

(*b*) Their population or the absence thereof

(*c*) Their contiguity to the principal territory

(*d*) Their geological configuration

(*e*) The special interest of island States and archipelagic States.

C

Exclusive economic zone concept including exclusive fishery zone

6. That the African States recognize the right of each coastal State to establish an exclusive economic zone beyond their territorial seas whose limits shall *not exceed* 200 nautical miles, measured from the baseline establishing their territorial seas;

7. That in such zones the coastal States shall exercise permanent sovereignty over all the living and mineral resources and shall manage the zone without undue interference with the other legitimate uses of the sea, namely, freedom of navigation, overflight and laying of cables and pipelines;

8. That the African countries consider that scientific research and the control of marine pollution in the economic zone shall be subject to the jurisdiction of the coastal States;

9. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the land-locked and other disadvantaged countries are entitled to share in the exploitation of living resources of neighbouring economic zones on an equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements as may be worked out;

10. That nothing in the propositions set herein should be construed as recognizing rights of territories under colonial, foreign or racist domination to the foregoing.

D

Regional arrangements

11. That the African States in order to develop and manage the resources of the region take all possible measures, including co-operation in the conservation and management of the living resources and the prevention and control of pollution to conserve the marine environment, to establish such regional institutions as may be necessary and settle disputes between them in accordance with regional arrangements.

E

Fishing activities in the high seas

12. That the African States recognize that fishing activities in the high seas have a direct effect on the fisheries within the territorial sea and in the economic zone. Consequently, such activities must be regulated especially having regard to the highly migratory and anadromous fish species. The African States therefore favour the setting up of an international sea fisheries régime or authority with sufficient powers to make States comply to widely accepted fisheries management principles or alternatively the strengthening of the existing Food and Agriculture Organization of the United Nations Fisheries Commissions or other fisheries regulatory bodies to enable them to formulate appropriate regulations applicable in all the areas of the high seas.

F

Training and transfer of technology

13. That the African States in order to benefit in exploration and exploitation of the resources of the sea-bed and subsoil thereof shall intensify national and regional efforts in the training and assistance of their personnel in all aspects of marine science and technology. Furthermore they shall urge the appropriate United Nations agencies and the technologically advanced countries to accelerate the process of transfer of marine science and technology, including the training of personnel.

G

Scientific research

14. All States regardless of their geographical situation have the right to carry out scientific research in the marine environment. The research must be for peaceful purposes and should not cause any harm to the marine environment.

Scientific research in the territorial sea or in the exclusive economic zone shall only be carried out with the consent of the coastal State concerned.

States agree to promote international co-operation in marine scientific research in areas beyond limits of national jurisdiction. Such scientific research shall be carried out in accordance with rules and procedures laid down by the international machinery.

H

Preservation of the marine environment

15. That African States recognize that every State has a right to manage its resources pursuant to its environmental policies and has an obligation in the prevention and control of pollution of the marine environment.

16. Consequently, African States shall take all possible measures, individually or jointly, so that activities carried out under their jurisdiction or control do not cause pollution damage to other States and to the marine environment as a whole.

17. In formulating such measures, States shall take maximum account of the provisions of existing international or regional pollution control conventions and of relevant principles and recommendations proposed by competent international or regional organizations.

I

International régime and international machinery for the sea-bed and ocean floor and subsoil thereof beyond the limits of national jurisdiction

18. That African States reaffirm their belief in the Declaration of Principles, embodied in resolution 2749 (XXV) of the United Nations General Assembly, and that in order to realize its objectives these principles shall be translated into treaty articles to govern the area.

19. In particular the African States reaffirm their belief in the principle of the common heritage of mankind, which principle should in no way be limited in its scope by restrictive interpretations.

20. That with regard to the International Sea-Bed Area, African States affirm that until the establishment of the international régime and international machinery the applicable régime in the area is the Declaration of Principles, resolution 2749 (XXV) and the moratorium resolutions; and that in accordance with the provisions of the Declaration and the resolutions no State or person, natural or juridical, shall engage in any activities aimed at commercial exploitation of the area.

21. Without prejudice to paragraphs 1 and 6 above, the African States support a limit of the international area determined by distance from appropriate baselines.

22. That the African States affirm that:

(*a*) The competence of the international machinery shall extend over the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;

(*b*) The machinery shall possess full legal personality with functional privileges and immunities. It may have some

working relationship with the United Nations system but it shall maintain considerable political and financial independence;

(*c*) The machinery shall be invested with strong and comprehensive powers. Among others it shall have the right to explore and exploit the area, to regulate the activities in the area, to handle equitable distribution of benefits and to minimize any adverse economic effects by the fluctuation of prices of raw materials resulting from activities carried out in the area; to distribute equitably among all developing countries the proceeds from any tax (fiscal imposition) levied in connexion with activities relating to the exploitation of the area; to protect the marine environment; to regulate and conduct scientific research and in this way give full meaning to the concept of the common heritage of mankind;

(*d*) There shall be an assembly of all members which shall be the respository of all powers and a council of limited membership whose composition shall reflect the principle of equitable geographical distribution and shall exercise, in a democratic manner, most of the functions of the machinery. There shall also be a secretariat to service all the organs and a tribunal for the settlement of disputes. The Assembly and the Council would be competent to establish as appropriate subsidiary organs for specialized purposes.

7. The Third United Nations Conference on the Law of the Sea

Rules of Procedure (with Gentlemen's Agreement), March 6, 1980*

* U.N. Doc. A/CONF.62/30/Rev.3 (1980).

RULES OF PROCEDURE

CHAPTER I

REPRESENTATION AND CREDENTIALS

Composition of delegations

Rule 1

The delegation of each State participating in the Conference shall consist of accredited representatives and such alternate representatives and advisers as may be required.

Alternates and advisers

Rule 2

An alternate representative or an adviser may act as a representative upon designation by the chairman of the delegation.

Submission of credentials

Rule 3

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Executive Secretary if possible not later than 24 hours after the opening of the Conference. Any later change in the composition of delegations shall also be submitted to the Executive Secretary. The credentials shall be issued either by the Head of the State or Government or by the Minister for Foreign Affairs. In the absence of a contrary indication, credentials shall have effect for all sessions of the Conference unless withdrawn or superseded by new credentials.

Credentials Committee

Rule 4

A Credentials Committee shall be appointed at the beginning of the first session of the Conference to serve for all sessions. It shall consist of nine members, who shall be appointed by the Conference on the proposal of the President. It shall examine the credentials of representatives and report to the Conference without delay. At the subsequent sessions of the Conference it shall examine only the credentials of representatives newly accredited, unless the Conference decides otherwise by a majority of the representatives present and voting.

Provisional participation in the Conference

Rule 5

Pending a decision of the Conference upon their credentials, representatives shall be entitled to participate provisionally in the Conference.

CHAPTER II

OFFICERS

Election

Rule 6

The Conference shall elect a President, 31 Vice-Presidents and a Rapporteur-General, as well as a Chairman, three Vice-Chairmen and a Rapporteur of each Main Committee provided for in rule 50 and the Chairman of the Drafting Committee provided for in rule 53. These officers shall be elected on the basis of ensuring the representative character of the General Committee and of the officers of each Main Committee; their term of office shall be for all sessions of the Conference. The Conference may also elect such other officers as it deems necessary for the performance of its functions.

General powers of the President

Rule 7

In addition to exercising the powers conferred upon him elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each plenary meeting, direct the discussions at such meetings, accord the right to speak, put questions to the vote and announce decisions. He shall rule on points of order and, subject to these rules of procedure, have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the limitation of time to be allowed to speakers, the limitation of the number of times each representative may speak on any question, the closure of the list of speakers, the adjournment or closure of the debate, and the suspension or the adjournment of the meeting.

Rule 8

The President, in the exercise of his functions, remains under the authority of the Conference.

Acting President

Rule 9

If the President is absent from a plenary meeting or any part thereof, he shall designate one of the Vice-Presidents to take his place.

Rule 10

A Vice-President acting as President shall have the same powers and duties as the President.

Replacement of the President

Rule 11

If the President is unable to perform his functions, a new President shall be elected.

The President shall not vote

Rule 12

The President, or a Vice-President acting as President, shall not vote but shall designate another member of his delegation to vote in his place.

Functions of the Rapporteur-General

Rule 13

The Rapporteur-General shall act in that capacity in respect of both the Conference and the General Committee. He shall prepare, for approval of the Conference, any reports to be submitted to the General Assembly of the United Nations.

CHAPTER III

GENERAL COMMITTEE

Composition

Rule 14

There shall be a General Committee consisting of the President, the Vice-Presidents, the Rapporteur-General and the officers of the Main Committees; the Chairman of the Drafting Committee may participate in the General Committee, without the right to vote. The President of the Conference or, in his absence, the Vice-President designated by him, shall serve as Chairman of the General Committee.

Substitute members

Rule 15

If the President, the Rapporteur-General, or the Chairman or Rapporteur of a Main Committee finds it necessary to be absent during a meeting of the General Committee, he may designate a member of his delegation to sit and vote in the Committee. The Chairman of the Drafting Committee may, in case of absence, designate a member of that Committee to take his place in the General Committee.

Functions

Rule 16

The General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the co-ordination of its work.

Rule 17

Questions affecting the co-ordination of their work may be referred by other committees to the General Committee, which may make such arrangements as it sees fit, including the holding of joint meetings of committees or subsidiary organs and, where appropriate, proposing to the Conference the establishment of joint subsidiary organs.

Rule 18

The General Committee shall meet periodically throughout each session to review the progress of the Conference, its Main Committees and subsidiary organs, and to make recommendations for furthering such progress. It shall also meet at such other times during a session as the President deems necessary or upon the request of any other of its members.

Rule 19

The General Committee shall perform such additional tasks as are provided for in these rules or as are assigned to it by the Conference.

CHAPTER IV

SECRETARIAT

Duties of the Secretary-General and the Secretariat

Rule 20

1. The Secretary-General of the United Nations or his special representative shall act in that capacity in all meetings of the Conference, its committees and subsidiary organs.

2. The Secretary-General shall appoint an Executive Secretary of the Conference and shall provide and direct the staff required by the Conference, its committees and subsidiary organs.

3. The Secretariat shall receive, translate, reproduce and distribute documents, reports and resolutions of the Conference, interpret speeches made at the meetings, prepare and circulate records of the public meetings; have the custody and preservation of the documents in the archives of the United Nations; publish the reports of the public meetings; and, generally, perform all other work which the Conference may require.

Statements by the Secretariat

Rule 21

The Secretary-General or any member of the staff designated for that purpose may at any time make either oral or written statements concerning any question under consideration.

CHAPTER V

CONDUCT OF BUSINESS

Quorum

Rule 22

The President may declare a meeting open and permit the debate to proceed when representatives of at least one third of the States participating in that session of the Conference are present. The presence of representatives of a majority of the States so participating shall be required for any decision to be taken, provided that for a decision on any matter of substance the presence of representatives of two thirds of the States so participating shall be required.

Speeches

Rule 23

No person may address the Conference without having previously obtained the permission of the President. Subject to rules 24 and 25, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall be in charge of drawing up a list of such speakers. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

Precedence

Rule 24

The Chairman or Rapporteur of a committee, or the representative of a subsidiary organ, may be accorded precedence for the purpose of explaining the conclusion arrived at by his committee or organ.

Points of order

Rule 25

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with these rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote and the President's ruling shall stand unless the appeal is approved by a majority of the representatives present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

Time-limit on speeches

Rule 26

The Conference may limit the time to be allowed to each speaker and the number of times each representative may speak on the question. When the debate is limited and a representative has spoken his allotted time, the President shall call him to order without delay.

Closing of list of speakers

Rule 27

During the course of a debate the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. He may, however, accord the right of reply to any representative if a speech delivered after he has declared the list closed makes this desirable.

Adjournment of debate

Rule 28

During the discussion of any matter, a representative may move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two representatives may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

Closure of debate

Rule 29

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the motion shall be accorded only to two speakers opposing the closure, and the President may limit the time to be allowed to speakers under this rule. Adoption of the motion shall require a two-thirds majority of the representatives present and voting.

Suspension or adjournment of the meeting

Rule 30

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speaker moving the suspension or adjournment.

Order of procedural motions

Rule 31

Subject to rule 25, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(*a*) To suspend the meeting;

(*b*) To adjourn the meeting;

(*c*) To adjourn the debate on the question under discussion;

(*d*) To close the debate on the question under discussion.

Initial documentation

Rule 32

The initial documentation of the Conference shall consist of the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and of all other relevant documentation of the General Assembly and the Committee.

Proposals and amendments

Rule 33

Proposals and amendments shall normally be introduced in writing and handed to the Executive Secretary, who shall circulate copies to the delegations. No proposal shall be discussed or put to the vote at any meeting of the Conference unless copies of it have been circulated to all delegations in all languages of the Conference not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day.

Decisions on competence

Rule 34

Subject to rule 25, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal or an amendment submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or amendment in question.

Withdrawal of motions

Rule 35

A motion may be withdrawn by its proposer at any time before voting on it has commenced provided that the motion has not been amended. A motion which has thus been withdrawn may be reintroduced by any representative.

Reconsideration of proposals

Rule 36

When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives present and voting, so decides. Permission to speak on the motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

CHAPTER VI

DECISION-MAKING

Requirements for voting

Rule 37

1. Before a matter of substance is put to the vote, a determination that all efforts at reaching general agreement have been exhausted shall be made by the majority specified in paragraph 1 of rule 39.

2. Prior to making such a determination the following procedures may be invoked:

(*a*) When a matter of substance comes up for voting for the first time, the President may, and shall if requested by at least 15 representatives, defer the question of taking a vote on such matter for a period not exceeding 10 calendar days. The provisions of this subparagraph may be applied only once on the matter.

(*b*) At any time the Conference, upon a proposal by the President or upon motion by any representative, may decide, by a majority of the representatives present and voting, to defer the question of taking a vote on any matter of substance for a specified period of time.

(*c*) During any period of deferment, the President shall make every effort, with the assistance as appropriate of the General Committee, to facilitate the achievement of general agreement, having regard to the over-all progress made on all matters of substance which are closely related, and a report shall be made to the Conference by the President prior to the end of the period.

(*d*) If by the end of a specified period of deferment the Conference has not reached agreement and if the question of taking a vote is not further deferred in accordance with subparagraph (*b*) of this paragraph, the determination that all efforts at reaching general agreement have been exhausted shall be made in accordance with paragraph 1 of this rule.

(*e*) If the Conference has not determined that all efforts at reaching agreement had been exhausted, the President may propose or any representative may move, notwithstanding rule 36, after the end of a period of no less than five calendar days from the last prior vote on

such a determination, that such a determination be made in accordance with paragraph 1 of this rule; the requirement of five days' delay shall not apply during the last two weeks of a session.

3. No vote shall be taken on any matter of substance less than two working days after an announcement that the Conference is to proceed to vote on the matter has been made, during which period the announcement shall be published in the Journal at the first opportunity.

Voting rights

Rule 38

Each State represented at the Conference shall have one vote.

Required majority

Rule 39

1. Decisions of the Conference on all matters of substance, including the adoption of the text of the Convention on the Law of the Sea as a whole, shall be taken by a two-thirds majority of the representatives present and voting, provided that such majority shall include at least a majority of the States participating in that session of the Conference.

2. Rule 37 shall not apply to the adoption of the text of the Convention as a whole. However, the Convention shall not be put to the vote less than four working days after the adoption of its last article.

3. Except as otherwise specified in these rules, decisions of the Conference on all matters of procedure shall be taken by a majority of the representatives present and voting.

4. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless the appeal is approved by a majority of the representatives present and voting.

Meaning of the phrase "representatives present and voting" and of the term "States participating"

Rule 40

1. For the purpose of these rules, the phrase "representatives present and voting" means representatives present and casting an affirmative or negative vote; representatives who abstain from voting shall be considered as not voting.

2. Subject to the provisions of rules 1 to 5 and without prejudice to the powers and functions of the Credentials Committee, the term "States participating" in relation to any particular session of the Con-

ference means any State whose representatives have registered with the Secretariat of the Conference as participating in that session and which has not subsequently notified the Secretariat of its withdrawal from that session or a part of it. The Secretariat shall keep a Register for this purpose.

Method of voting

Rule 41

1. The Conference shall normally vote by show of hands or by standing, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States participating in the Conference, beginning with the delegation whose name is drawn by lot by the President.

2. When the Conference votes by mechanical means, a non-recorded vote shall replace a vote by show of hands or by standing and a recorded vote shall replace a roll-call vote. Any representative may request a recorded vote. In the case of a recorded vote, the Conference shall, unless a representative requests otherwise, dispense with the procedure of calling out the names of the States; nevertheless, the results of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Conduct during voting

Rule 42

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connexion with the actual conduct of the voting. The President may permit representatives to explain their votes, either before or after the voting, except when the vote is taken by secret ballot. The President may limit the time to be allowed for such explanations.

Division of proposals and amendments

Rule 43

A representative may move that parts of a proposal or of an amendment be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. If the motion for division is carried, those parts of the proposal or of the amendment which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Order of voting on amendments

Rule 44

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

Order of voting on proposals

Rule 45

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposal.

Elections

Rule 46

All elections shall be held by secret ballot unless otherwise decided by the Conference.

Rule 47

1. If, when one person or one delegation is to be elected, no candidate obtains in the first ballot the votes of a majority of the representatives present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 48

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the votes of a majority of the representatives present and voting shall be elected. If the number of

candidates obtaining such majority is less than the number of persons or delegations to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled; provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Equally divided votes

Rule 49

If a vote is equally divided on matters other than elections, the proposal shall be regarded as rejected.

CHAPTER VII

COMMITTEES AND SUBSIDIARY ORGANS

Establishment

Rule 50

In addition to the General Committee, the Drafting Committee and the Credentials Committee, the Conference shall establish three Main Committees, the competence of which shall be determined by the Conference. The Conference and each Committee may, subject to rule 17, establish subsidiary organs (sub-committees or working groups).

Representation in Main Committees

Rule 51

Each State participating in the Conference may be represented by one person on each Main Committee. It may assign to these Committees such alternate representatives and advisers as may be required.

Statements to restricted organs

Rule 52

Any State participating in the Conference that is not a member of a committee or subsidiary organ shall have the right to explain its views to that body on any proposal that that State has made when that proposal is under consideration, providing that no co-sponsor of the proposal is a member of that body.

Drafting Committee

Rule 53

1. The Conference shall appoint a Drafting Committee to serve for all sessions. The Drafting Committee shall consist of 23 members, including its Chairman: the Rapporteur-General may participate in the Drafting Committee, without the right to vote. It shall, without reopening substantive discussion on any matter, formulate drafts and give advice on drafting as requested by the Conference or by a Main Committee, co-ordinate and refine the drafting of all texts referred to it, without altering their substance, and report to the Conference or to the Main Committee as appropriate. It shall have no power of or responsibility for initiating texts.

2. Without prejudice to paragraph 1 of this rule, the sponsor or a representative of the group of sponsors of a proposal shall be invited to the appropriate meetings of the Drafting Committee and may participate, without the right to vote, in the discussion at the discretion of the Chairman, in case the Conference or a Main Committee decides to refer that proposal to the Drafting Committee without taking a decision thereon.

Officers and elections

Rule 54

Except in the case of the officers of the Main Committees and the Chairman of the Drafting Committee, each committee and subsidiary organ shall elect its own officers. The elections shall be held by secret ballot unless the committee or organ decides otherwise in an election where only one candidate is standing. The nomination of each candidate shall be limited to one speaker, after which the committee or organ shall immediately proceed to the election.

Officers, conduct of business and voting

Rule 55

The rules relating to officers, conduct of business and voting of the Conference (contained in chapters II (rules 6-13), V (rules 22-36) and VI (rules 37-49) above) shall be applicable, *mutatis mutandis*, to the proceedings of committees and subsidiary bodies, except that:

(*a*) The Chairmen of the General, Drafting and Credentials Committees and the chairmen of subsidiary organs may exercise the right to vote;

(*b*) The presence of representatives of a majority of the States participating in that session of the Conference shall be required for any decision to be taken on any matter in a Main Committee; a majority of the representatives on the General, Drafting or Credentials Committee or any subsidiary organ shall constitute a quorum;

(*c*) Decisions of committees and subsidiary organs shall be taken by a majority of the representatives present and voting, except in the case of a reconsideration of a proposal for which the majority required shall be that established by rule 36;

(*d*) Rule 37 shall be applied to the Main Committees, provided that a determination pursuant to paragraph 1 shall require a majority of the representatives present and voting, the deferment of the question of taking a vote by the Chairman of the Committee in conformity with subparagraph 2 (*a*) shall not exceed five calendar days and the assistance specified in subparagraph 2 (*c*) shall be rendered the Chairman by the officers of the Committee

CHAPTER VIII

LANGUAGES AND RECORDS

Languages of the Conference

Rule 56

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Conference.

Interpretation

Rule 57

1. Speeches made in any language of the Conference shall be interpreted into the other such languages.

2. Any representative may make a speech in a language other than a language of the Conference. In this case he shall himself provide for interpretation into one of the languages of the Conference and interpretation into the other such languages by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Records of meetings

Rule 58

1. Summary records of the plenary meetings of the Conference and of the meetings of the Main Committees shall be kept in the languages of the Conference. As a general rule, they shall be circulated as soon as possible simultaneously in all the languages of the Conference, to all representatives, who shall inform the Secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

2. The Secretariat shall make sound recordings of meetings of the Conference and the Main Committees and of other committees and subsidiary organs when they so decide.

CHAPTER IX

PUBLIC AND PRIVATE MEETINGS

Plenary and committee meetings

Rule 59

The plenary meetings of the Conference and the meetings of committees shall be held in public unless the body concerned decides otherwise.

Meetings of subsidiary organs

Rule 60

As a general rule meetings of subsidiary organs shall be held in private.

Communiqués to the press

Rule 61

At the close of any private meeting a *communiqué* may be issued to the press through the Executive Secretary.

CHAPTER X

OBSERVERS

Observers for national liberation movements

Rule 62

1. National liberation movements in their respective regions recognized by the Organization of African Unity or by the League of Arab States may designate representatives to participate as observers, without the right to vote, in the deliberations of the Conference, the Main Committees and, as appropriate, the subsidiary organs.

2. Written statements of such observers shall be distributed by the Secretariat to the delegations at the Conference.

Observers invited in accordance with paragraph 3 of General Assembly resolution 3334 (XXIX)

Rule 63

1. Representatives designated as observers pursuant to the invitations extended by the Secretary-General under paragraph 3 of General Assembly resolution 3334 (XXIX) may participate, without the right to vote, in the deliberations of the Conference, the Main Committees and, as appropriate, the subsidiary organs.

2. Written statements of such observers shall be distributed by the Secretariat to the delegations at the Conference.

Observers for intergovernmental organizations

Rule 64

1. The specialized agencies, the International Atomic Energy Agency and other intergovernmental organizations invited to the Conference may designate representatives to participate as observers, without the right to vote, in the deliberations of the Conference, the Main Committees and, as appropriate, the subsidiary organs, upon the invitation of the President or chairman, as the case may be, on questions within the scope of their activities.

2. Written statements of such observers shall be distributed by the Secretariat to the delegations at the Conference.

Observers for non-governmental organizations

Rule 65

1. International non-governmental organizations invited to the Conference may designate representatives to sit as observers at public meetings of the Conference and its Main Committees.

2. Upon the invitation of the President or chairman, as the case may be, and subject to the approval of the body concerned, these representatives may make oral statements on questions within the scope of their activities.

3. Written statements submitted by these non-governmental organizations on subjects in which they have a special competence and which are related to the work of the Conference, shall be distributed by the Secretariat in the quantities and in the languages in which the statements were made available.

CHAPTER XI

AMENDMENTS TO THE RULES OF PROCEDURE

Method of amendment

Rule 66

These rules of procedure may be amended by a decision of the Conference taken by the majority specified in paragraph 1 of rule 39, after the General Committee has reported on the proposed amendment.

APPENDIX

Declaration incorporating the "Gentleman's Agreement"[1] made by the President and endorsed by the Conference at its 19th meeting on 27 June 1974

Bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a Convention on the Law of the Sea which will secure the widest possible acceptance,

The Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted.

[1] Approved by the United Nations General Assembly at its 2169th meeting on 16 November 1973.

The Group of Eleven Proposals, April 13, 1982*

* U.N. Doc. A/CONF.62/L.104 (1982).

A

Third United Nations Conference on the Law of the Sea

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AUSTRALIA, AUSTRIA, CANADA, DENMARK, FINLAND, ICELAND, IRELAND NEW ZEALAND, NORWAY AND SWEDEN: AMENDMENTS

Article 150

Policies relating to activities in the Area

Insert the following new subparagraph before subparagraph (a) and reletter the subsequent subparagraphs accordingly:

(a) the development of the resources of the Area;

Existing subparagraph (a) should be changed to read:

(b) orderly, safe and rational management of the resources of the Area ...

Article 155

The Review Conference

Paragraphs 3 and 4 should read:

3. The Conference shall establish its own rules of procedure. The decision-making procedure applicable at the Conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea unless otherwise decided by the Conference. The Conference shall make every effort to reach agreement on any amendments by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted.

"(a) If, five years after its commencement, the Conference has not reached agreement on the system of exploration and exploitation of the resources of the Area, it may decide during the ensuing twelve months to adopt and submit to the States Parties for ratification or accession such amendments changing or modifying the system as it determines necessary and appropriate taking into account the experience gained as to the effectiveness and the viability of the system as laid down in article 153, paragraph 2.

"(b) The amendments shall enter into force twelve months after the date of deposit of instruments of ratification or accession by two thirds of the States Parties. Exploration and exploitation of the resources of the Area shall thereafter be governed by this Part and the relevant Annexes as amended.

"(c) A State Party which has not ratified or acceded to the amendments shall nevertheless continue to enjoy the rights and perform the obligations of the other provisions of this Convention.

Article 158

Organs of the Authority

Paragraph 4 should read:

4. Each organ shall be responsible for exercising the powers and functions which have been conferred upon it. No organ shall take any action that derogates from or impedes the exercise of specific powers and functions conferred upon another organ.

Article 160

Powers and Functions

Add the following sentence at the end of paragraph 1:

Nothing in this paragraph shall derogate from the provisions of article 158, paragraph 4.

Article 161

Composition, procedure and voting

Reverse the order of paragraph 1 (a) and (b) and add the following to the new paragraph 1 (a):

as well as the largest consumer

Add the following paragraph after paragraph 1 (e):

Accordingly, the Council shall consist of nine members from the Group of Western Europe and others,* three members from the Eastern European (Socialist) Group and twenty-four members from the African, Asian and Latin American Groups.

In paragraph 7 (c), delete the reference to article 162, paragraph 2 (q)** and add as paragraph c (bis):

(c) (bis) Decisions on questions of substance arising under article 162, paragraph 2 (q), shall be taken by a majority of three fourths plus one of the members present and voting, provided that such a majority includes a majority of the members of the Council.

ANNEX III

BASIC CONDITIONS OF PROSPECTING, EXPLORATION AND EXPLOITATION

Article 1

Title to minerals

Title to minerals shall pass to the operator upon recovery of the minerals from the Area in accordance with this Convention.

Article 3

Exploration and Exploitation

Paragraph 1 should read:

1. The Enterprise, States Parties, and the other entities referred to in article 153, paragraph 2 (b), of Part XI of this Convention, may apply to the Authority for approval of plans of work covering activities in the Area. Upon approval of a plan of work, any such entity shall be referred to as an "operator" for the purposes of this Convention.

Paragraph 4 (a) and (b) should read:

4. Every plan of work approved by the Authority shall:

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* N.B. For the purpose of this paragraph, the Western European and other States Group shall include, inter alia, Japan and the United States of America.

** Article 162, paragraph 2 (q) reads "submit the budget of the Authority to the Assembly for its approval".

(a) be in strict conformity with this Convention and the rules, regulations and procedures of the Authority;

(b) include the following undertakings by the applicant:*

(i) to accept as enforceable and comply with the applicable obligations created by the provisions of Part XI, the rules, regulations and procedures of the Authority and the decisions of the organs of the Authority in force at the time the plan of work is approved, and the terms of his contracts with the Authority;

(ii) to accept control by the Authority of activities in the Area, as authorized by this Convention;

(iii) to provide the Authority with a written assurance that his obligations under the contract will be fulfilled in good faith;

(iv) to comply with the provisions on the transfer of technology set forth in article 5.

Article 4

Qualifications of applicants

Paragraph 1 should read:

1. Applicants, other than the Enterprise, shall be qualified if they have the nationality or control and sponsorship required by article 153, paragraph 2 (b), of Part XI of this Convention and if they follow the procedures established by the Authority by means of rules, regulations and procedures and meet the following qualification standards:

(a) financial and technical capability including the capacity to generate internally or to raise funds necessary to comply with the minimum annual expenditures for exploration established in the rules, regulations and procedures of the Authority;

(b) except for the Enterprise and State Party applicants, the provision of a satisfactory financial guarantee to assure performance of the obligations under the proposed plan of work in the amount of 50 per cent of minimum annual expenditures for the first three years of exploration;

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* Sub-paragraph (b) replaces Article 4 (6). Consequently Article 17, paragraph 1 (b) (iii), should be redrafted as follows:

(iii) performance requirements including undertakings pursuant to Article 3, paragraph 4 (b);

(c) any additional qualifications as may be determined by the Authority in its rules, regulations and procedures.

Delete paragraphs 4, 5 and 6.

Add a new article 4 (bis):

Article 4 (bis)

Certification of applicants

1. A State Party or States Parties which sponsor an applicant, or in the case of the Enterprise, the Authority, shall provide the Legal and Technical Commission with a certification that the applicant which it sponsors in accordance with article 153, paragraph 2, is in full compliance with article 4 and the rules, regulations and procedures of the Authority concerning qualification standards for applicants.

2. A State Party shall not be subject to certification requirements but shall comply with article 4 and the rules, regulations and procedures of the Authority concerning qualification standards for applicants.

Article 5

Transfer of Technology

Paragraphs 3 and 4 should read:

3. Every contract for the conduct of activities in the Area entered into by the Authority shall contain the following undertakings by the contractor:

(a) to co-operate with the Authority in the acquisition by the Enterprise on fair and reasonable commercial terms and conditions of the technology necessary for the carrying out of its activities in the Area;

(b) to make available to the Enterprise, if and when the Authority shall so request, the technology which he uses in carrying out activities in the Area, which he is legally entitled to transfer and which he has made available or is willing to make available to third parties. This should be done by means of a licence or other appropriate arrangements which the contractor shall negotiate with the Enterprise and shall be on terms and conditions no less favourable than the terms and conditions under which the contractor has made or is willing to make the technology available to third parties;

(c) to acquire, if and when requested to do so by the Enterprise and whenever it is possible to do so without substantial cost to the contractor, a right to transfer to the Enterprise any other technology than that mentioned in subparagraph (b) which he uses in carrying out activities in the Area;

/...

(d) to assist, if and when the Authority so requests, the Enterprise in obtaining on the free market efficient and useful technology through purchase, licensing, leasing or other appropriate agreement or arrangement on fair and reasonable commercial terms and conditions;

(e) to take the same measures as those mentioned in subparagraph (a) to (d) for the benefit of a developing State or group of developing States which has applied for a contract under article 9, provided that these measures shall be limited to the exploitation of the part of the area proposed by the contractor which has been reserved pursuant to article 8.

4. Disputes concerning the undertakings required by paragraph 3 between the contractor and the Authority and between States Parties and the Authority shall be subject to compulsory dispute settlement in accordance with Part XI as appropriate. Disputes arising under subparagraph (b) may be submitted by either party to commercial arbitration in accordance with the UNCITRAL Arbitration Rules or other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority.

Add a new paragraph 5 as follows:

5. In order to comply with the policy of Part XI, States Parties undertake to ensure that the Enterprise is able to become a viable commercial entity and to engage successfully in the operations referred to in article 170. To this end, States Parties which engage in activities in the Area or sponsor an entity referred to in article 153, paragraph 2 (b), shall take effective measures to ensure that the provisions of paragraph 3 are brought into effect and shall take appropriate measures consistent with national law to prevent persons subject to their jurisdiction from engaging in a concerted refusal to supply technology to the Enterprise on commercial terms and conditions.

Delete paragraph 7. Renumber existing paragraph 5 as paragraph 6 and paragraph 6 as paragraph 7.

Article 6

Approval of plans of work

Paragraphs 1 and 2 should read:

1. The Legal and Technical Commission shall take up for consideration and recommendation to the Council, as expeditiously as possible, proposed plans of work in the order in which they are received.

2. When considering an application for approval of a plan of work with respect to activities in the Area, the Commission shall presume that the requirements of article 4 have been met in the case of applicants which have been certified pursuant to article 4 (bis), unless the Commission decides otherwise by a three-fourths majority of its members. In such a case, or in the absence of any of

the undertakings referred to in article 3, the applicant shall be given 45 days to remedy any deficiencies.

Paragraph 3 (a) should read:

3. The Commission shall recommend for approval the plans of work submitted by the Enterprise, State Party applicants and applicants which have been certified by States Parties pursuant to article 4 (bis) and whose applications have not been rejected pursuant to paragraph 2, unless:

(a) it determines by a three-fourths majority of its members that the plan of work does not conform to the Convention and the requirements established by the rules, regulations and procedures of the Authority;*

Reletter subparagraphs (a), (b) and (c) accordingly.

In paragraph 4 references to paragraph 3 (c) should be to paragraph 3 (d).

In paragraph 5, the reference to paragraph 3 (a) should be to paragraph 3 (b).

Article 17

Rules, regulations and procedures

Add the following new paragraph 1 (b) (xv):

(xv) exploration for an exploitation of resources of the Area other than polymetallic nodules;

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* Article 163, paragrph 11, should, consequently, read as follows:
11. Without prejudice to Annex III, article 6, paragraphs 2 and 3 (a), the decision-making ...

A

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Addendum

Add Switzerland to the list of sponsors.

82-10050 0144m (E)

Report of the President of the Conference, April 29, 1982*

* U.N. Doc. A/CONF.62/L.141 (1982).

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REPORT OF THE PRESIDENT TO THE CONFERENCE

1. I hope this will be the last report which I shall make to the Conference. You will recall that on 23 April 1982, I submitted to you a report in accordance with rule 37 of the rules of procedure. That report is contained in document A/CONF.62/L.132 and Corr.1 and Add.1 and Corr.1. Yesterday and this morning, 53 delegations made statements on that report and on the proposals contained in the addendum to the report. This afternoon and this evening, I shall study carefully the records of that debate and, based upon my assessments of that record, I shall make an appropriate recommendation to the Plenary tomorrow morning.

2. After the exciting, momentous and, for me, exhausting events of last Monday, 26 April, I had wrongly assumed that my work was done. This was unfortunately not to be the case. The representatives of the Group of 77 and the representatives of the Eastern European (Socialist) Group approached me and Chairman Paul Bamela Engo to hold further informal consultations on the draft resolution governing preparatory investments in pioneer activities relating to polymetallic nodules, as contained in Annex IV of A/CONF.62/L.132/Addendum 1. In addition, the representatives of a number of industrialized countries requested Chairman Engo and I to hold further consultations on some remaining difficulties which they had on provisions of Part XI of the Draft Convention and its annexes. Following appropriate consultations, Chairman Engo and I, with the able assistance of my good friend from Fiji, Ambassador Satya Nandan, held intensive informal consultations on 27 and 28 April. In this report, I shall attempt to give you an account of the results of those consultations.

The PIP Draft Resolution in Annex IV of A/CONF.62/L.132/Addendum 1

3. The representatives of the Group of 77 made three requests. First, they maintained that the size of the pioneer area contained in paragraph 1 (e) is too large and should be reduced. This position was supported by Japan. The representatives of the Group of 77 also requested that the relinquishment procedure in paragraph 1 (c) should be accelerated and the areas relinquished should not be in bits and pieces but in contiguous areas. Secondly, the Group of 77 requested that in paragraph 9 (a), the Enterprise should be guaranteed production authorization in

respect of two mine sites instead of one and that the production authorization of the Enterprise should enjoy priority over the pioneer investors. Thirdly, the Group of 77 requested the industrialized countries that they should assist the Enterprise in financing the exploration and exploitation of the second mine site.

4. The third demand of the Group of 77 was strongly opposed by the Soviet Union and others, who argued that this was an unacceptable attempt to reopen the negotiations on financial matters which had been conducted in Negotiating Group 2 and which had been settled.

5. In respect of the first and the second demands, a deal was struck whereby in return for the Group of 77 not insisting on its position on paragraph 1 (e), the industrialized countries will agree that the Enterprise should have production authorization for two mine sites and such production authorization shall enjoy priority over the pioneer investors. This proposed reformulation of paragraph 9 (a) is contained in the addendum to this report.

Paragraph 1 (a) (ii)

6. In respect of paragraph 1 (a) (ii), the Soviet Union, supported by the other members of the Eastern European (Socialist) Group made two complaints. Their first complaint was that it was legally impermissible and inappropriate for an international diplomatic conference, such as this, to decide to grant the status of a pioneer investor to private companies which will be identified by means of a reference to a United Nations document. The legal opinion of the Legal Counsel of the United Nations was sought. Mr. Suy's legal opinion and the reply of the Soviet Union thereto are contained in document A/CONF.62/L.133. The response of the Legal Counsel to the Soviet Union's reply is contained in A/CONF.62/L.139. The United Nations Legal Counsel is of the opinion that the approach adopted in paragraph 1 (a) (ii) is legally permissible and consistent with the practice of the United Nations. I concur with this opinion.

The complaint that paragraph 1 (a) (ii) is discriminatory

7. The second complaint of the Soviet Union and its colleagues from the Eastern European (Socialist) Group was that paragraph 1 (a) (ii) discriminates against the States referred to in 1 (a) (i) and 1 (a) (iii). Their argument was that in the case of the States referred to in 1 (a) (i) and 1 (a) (iii), every State must sign the Convention before its State enterprise, its natural or juridical person could qualify as the pioneer investor. In the case of paragraph 1 (a) (ii), if a consortium consists of four companies from four States, it is not required that all four States must sign the Convention before the consortia could be registered as a pioneer investor. On principle, there was merit in the Soviet complaint.

8. However, in return for this concession, the representatives of the Group of 77 were able to extract from the industrialized countries an even greater concession in paragraph 8 (c). In paragraph 8 (c), no plan of work for exploration and exploitation shall be approved for any of the consortia referred to in paragraph 1 (a) (ii) unless all the States whose natural or juridical persons comprise those consortia are parties to the Convention. This requirement is even higher than that contained in the Draft Convention and in Annex III. For this reason, I believe that the concession by the Group of 77 in paragraph 1 (a) (ii) is more than compensated by the concession by the industrialized countries in paragraph 8 (c).

9. I should also like to point out that the principle of non-discrimination is a double edged sword. The principle of non-discrimination means, in law, treating equals equally and giving differential treatment to those who are not equals. One could point out that the Soviet Union is a relative newcomer in the development of sea-bed mining technology, equipment and expertise. One could also point out that under paragraph 1 (a) (i), the Soviet Union is guaranteed one mine site, whereas in paragraph 1 (a) (ii), the seven States, not counting Japan, have to share four mine sites.

Proposed modifications to Part XI and Annex III

10. On the very first day of this session of the Conference, I made a statement in which I reaffirmed, on behalf of the Collegium, our commitment to work for the adoption of the Convention, preferably by consensus. With respect to the proposals of the United States and the other co-sponsors of A/CONF.62/L.121, I had informed the Conference of the parameters within which any productive negotiations and consultations must be conducted. What are these parameters? First, any proposed modification must not call into question the fundamental framework and elements of the existing text of Part XI and its annexes. Secondly, any proposed modification must take into account the interest of other countries and must not be harmful to some or all of them. Thirdly, the proposed modification must be negotiated within the framework and deadlines set out in document A/CONF.62/L.116. It is the desire of every delegation in this Conference to have a Convention which will be supported by all States, including the United States. I believe I am right when I say that the Conference is willing to pay a price in order to obtain the support of the United States for the Convention. That price is not, however, an unlimited one. It must be a reasonable price. It must be a price which does not hurt the interest of other countries, especially the developing countries. Guided by these considerations, I have proposed in the addendum to this report, a number of modifications to Part XI and to Annex III which, in my view, do not hurt the interests of the developing countries or the countries of the Eastern European (Socialist) Group. The proposed modifications will enhance the prospects that the United States and the other major industrialized countries will join us in the adoption of the Convention tomorrow and will subsequently sign and ratify the Convention.

11. I will conclude my statement by making an appeal to all the delegations in the Conference to support the proposals contained in the addendum to this report. To the developing countries, I have this to say to them. I know that what I am asking you to do is to agree, essentially, to make a series of unilateral concessions to the United States and other industrialized countries. But I ask you to bear in mind that the concessions which I am asking you to make do not hurt in any significant way, the interests of your Group or of your countries. I believe it is a price worth paying in order to enhance the prospects of attracting universal support for our Convention. We must also not forget that Part XI is not the only part of our Convention. There are many other parts of the Convention in which our countries have strong, concrete and vital interests. Because of the package-deal principle, we cannot adopt the one part without the other. Let me give you an example to illustrate my point. This Convention, if adopted, is a landmark achievement for the land-locked States in respect of their right of access to and from the sea and freedom of transit.

12. To the United States and the other co-sponsors to A/CONF.62/L.121, I address this appeal. I know that the modifications which I have proposed to Part XI and its annexes contained in the addendum to A/CONF.62/L.130 and the addendum to this report look meagre compared to the demands in A/CONF.62/L.121. I want to assure you that Chairman Engo and I have, within the parameters which we set out for ourselves, gone as far as we can to assist you. We believe that these proposed modifications do address most of your fundamental concerns and we hoped that it will be possible for you to join the Conference tomorrow in adopting the Convention.

13. To the members of the Eastern European (Socialist) Group, I address the following appeal. Nothing that Chairman Engo and I have proposed, by way of modifications to Part XI and its annexes, call into question the fundamental framework of the existing text or are injurious to your interest. We appeal to you to support our proposals.

14. Finally, I cannot conclude without paying a special tribute to the 11 good samaritans who co-sponsored document A/CONF.62/L.104. At a time when the Group of 77 and the United States were locked in a confrontation, you came to our rescue. You built a bridge between them. You opened up channels of communication and dialogue. You have made it possible for Chairman Engo and I to build upon your compromise proposals.

15. We have a rendezvous with history tomorrow. With your help, your understanding, your co-operation and your good will, I am confident that we will succeed in keeping that rendezvous.

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REPORT OF THE PRESIDENT TO THE CONFERENCE

Addendum

1. Proposed modification to document A/CONF.62/L.78

Unfair Economic Practices

Article 151 (2) bis

Rights and obligations relating to unfair economic practices under relevant multilateral trade agreements shall apply to the exploration and exploitation of minerals from the Area. In the settlement of disputes arising under this provision, States Parties which are Parties to such multilateral trade agreements shall have recourse to the dispute settlement procedures of such agreements.

Renumber the following articles accordingly.

2. Proposed modification to document A/CONF.62/L.78

Article 151

Reformulate paragraph 3 as follows:

The Authority shall have the power to limit the level of production of minerals from the Area, other than minerals from nodules, under such conditions and applying such methods as may be appropriate by adopting regulations in accordance with article 161, paragraph 7.

3. Proposed modification to document A/CONF.62/L.78

(a) In article 162 (2) (n) (ii) insert the following sentences after the second sentence:

Priority shall be given to the adoption of rules, regulations and procedures for the exploration and exploitation of polymetallic nodules.

Rules, regulations and procedures for the exploration and exploitation of any resource other than polymetallic nodules shall be adopted, within 3 years from the date of a request to the Authority by any of its members to adopt such rules, regulations and procedures in respect of such resource.

(b) In the last sentence, change the first word "Such" to "All".

4. Proposed modification to document A/CONF.62/L.78, article 155, paragraph 4

Alter the majority required from "two-thirds" to "three-fourths".

5. Proposed modification to Annex III of document A/CONF.62/L.78

(a) Add a new paragraph 3 (bis) to article 5 to read as follows:

3 (bis) If a sponsoring State is unable to ensure the performance by the operator of the undertakings referred to in paragraph 3, the sponsoring State shall assume and perform the operator's undertakings. If the sponsoring State fails to carry out its undertakings and a dispute arises in relation thereto, the operator shall be subject to the provisions of paragraph 4 of this Article.

(b) Renumber paragraphs 4 to 8 accordingly.

6. Proposed modification to Annex III in document A/CONF.62/L.78

Reformulate the chapeau of paragraph 3 of article 6 as follows:

3. All proposed plans of work shall be dealt with in the order in which they are received. The proposed plans of work shall comply with and be governed by the relevant provisions of the Convention and the rules, regulations and procedures of the Authority, including the operational requirements, the financial contributions and the undertakings concerning the transfer of technology. If the proposed plans of work conform to these requirements, the Authority shall approve such plans of work provided that they are in accordance with the uniform and non-discriminatory requirements established by the rules, regulations and procedures of the Authority, unless:

7. Proposed modification to Annex IV of A/CONF.62/L.132/Add.1

Reformulate paragraph 9 (a) to read as follows:

9 (a) In the allocation of production authorization, in accordance with article 151 of the Convention and Annex III, article 7, the pioneer investors who have obtained approval of plans of work for exploration and exploitation, shall have priority over all applicants other than the Enterprise which shall be entitled to production authorization for two mine sites including that referred to in article 151, paragraph 2 (c). After each of the pioneer investors has obtained production authorization for its first mine site, the priority for the Enterprise contained in Annex III, article 7, paragraph 6 shall apply.

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REPORT OF THE PRESIDENT TO THE CONFERENCE

Corrigendum

Page 2

Delete paragraph 5

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* U.N. Publication Sales No. E.83.V.5. (1983).

The Law of the Sea

Official Text of the United Nations Convention on the Law of the Sea with Annexes and Index

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Final Act of the Third United Nations Conference on the Law of the Sea

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Introductory Material on the Convention and the Conference

United Nations
New York, 1983

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FINAL ACT OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

* * *

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

The States Parties to this Convention,

Prompted by the desire to settle, in a spirit of mutual understanding and co-operation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world,

Noting that developments since the United Nations Conferences on the Law of the Sea held at Geneva in 1958 and 1960 have accentuated the need for a new and generally acceptable Convention on the law of the sea,

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole,

Recognizing the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the achievement of these goals will contribute to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked,

Desiring by this Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly of the United Nations solemnly declared *inter alia* that the area of the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States,

Believing that the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in the Charter,

Affirming that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I

INTRODUCTION

Article 1
Use of terms and scope

1. For the purposes of this Convention:

(1) "Area" means the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction;

(2) "Authority" means the International Sea-Bed Authority;

(3) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;

(4) "pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

(5) (a) "dumping" means:

(i) any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

(ii) any deliberate disposal of vessels, aircraft, platforms or other man-made structures at sea;

(b) "dumping" does not include:

(i) the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

2. (1) "States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.

(2) This Convention applies *mutatis mutandis* to the entities referred to in article 305, paragraph 1(b), (c), (d), (e) and (f), which become Parties to this Convention in accordance with the conditions relevant to each, and to that extent "States Parties" refers to those entities.

PART II

TERRITORIAL SEA AND CONTIGUOUS ZONE

SECTION 1. GENERAL PROVISIONS

Article 2
Legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.

2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 3
Breadth of the territorial sea

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

Article 4
Outer limit of the territorial sea

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 5
Normal baseline

Except where otherwise provided in this Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 6
Reefs

In the case of islands situated on atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State.

Article 7
Straight baselines

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.

3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.

5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

Article 8
Internal waters

1. Except as provided in Part IV, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.

Article 9
Mouths of rivers

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks.

Article 10
Bays

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 7 is applied.

Article 11
Ports

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast. Off-shore installations and artificial islands shall not be considered as permanent harbour works.

Article 12
Roadsteads

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea.

Article 13
Low-tide elevations

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 14
Combination of methods for determining baselines

The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions.

Article 15
Delimitation of the territorial sea between States with opposite or adjacent coasts

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to

extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.

Article 16
Charts and lists of geographical co-ordinates

1. The baselines for measuring the breadth of the territorial sea determined in accordance with articles 7, 9 and 10, or the limits derived therefrom, and the lines of delimitation drawn in accordance with articles 12 and 15 shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, a list of geographical co-ordinates of points, specifying the geodetic datum, may be substituted.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA

SUBSECTION A. RULES APPLICABLE TO ALL SHIPS

Article 17
Right of innocent passage

Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

Article 18
Meaning of passage

1. Passage means navigation through the territorial sea for the purpose of:
(a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
(b) proceeding to or from internal waters or a call at such roadstead or port facility.

2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Article 19
Meaning of innocent passage

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if in the territorial sea it engages in any of the following activities:

(a) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
(b) any exercise or practice with weapons of any kind;
(c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;
(d) any act of propaganda aimed at affecting the defence or security of the coastal State;
(e) the launching, landing or taking on board of any aircraft;
(f) the launching, landing or taking on board of any military device;
(g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
(h) any act of wilful and serious pollution contrary to this Convention;
(i) any fishing activities;
(j) the carrying out of research or survey activities;
(k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
(l) any other activity not having a direct bearing on passage.

Article 20
Submarines and other underwater vehicles

In the territorial sea, submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Article 21
Laws and regulations of the coastal State relating to innocent passage

1. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:
(a) the safety of navigation and the regulation of maritime traffic;
(b) the protection of navigational aids and facilities and other facilities or installations;
(c) the protection of cables and pipelines;
(d) the conservation of the living resources of the sea;
(e) the prevention of infringement of the fisheries laws and regulations of the coastal State;
(f) the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof;
(g) marine scientific research and hydrographic surveys;
(h) the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State.

2. Such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.

3. The coastal State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.

Article 22
Sea lanes and traffic separation schemes in the territorial sea

1. The coastal State may, where necessary having regard to the safety of navigation, require foreign ships exercising the right of innocent passage through its territorial sea to use such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships.

2. In particular, tankers, nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to confine their passage to such sea lanes.

3. In the designation of sea lanes and the prescription of traffic separation schemes under this article, the coastal State shall take into account:

(a) the recommendations of the competent international organization;

(b) any channels customarily used for international navigation;

(c) the special characteristics of particular ships and channels; and

(d) the density of traffic.

4. The coastal State shall clearly indicate such sea lanes and traffic separation schemes on charts to which due publicity shall be given.

Article 23
Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances

Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships by international agreements.

Article 24
Duties of the coastal State

1. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea except in accordance with this Convention. In particular, in the application of this Convention or of any laws or regulations adopted in conformity with this Convention, the coastal State shall not:

(a) impose requirements on foreign ships which have the practical effect of denying or impairing the right of innocent passage; or

(b) discriminate in form or in fact against the ships of any State or against ships carrying cargoes to, from or on behalf of any State.

2. The coastal State shall give appropriate publicity to any danger to navigation, of which it has knowledge, within its territorial sea.

Article 25
Rights of protection of the coastal State

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary

steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.

3. The coastal State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security, including weapons exercises. Such suspension shall take effect only after having been duly published.

Article 26
Charges which may be levied upon foreign ships

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

SUBSECTION B. RULES APPLICABLE TO MERCHANT SHIPS AND GOVERNMENT SHIPS OPERATED FOR COMMERCIAL PURPOSES

Article 27
Criminal jurisdiction on board a foreign ship

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed on board the ship during its passage, save only in the following cases:

(a) if the consequences of the crime extend to the coastal State;

(b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea;

(c) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or

(d) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2, the coastal State shall, if the master so requests, notify a diplomatic agent or consular officer of the flag State before taking any steps, and shall facilitate contact between such agent or officer and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or in what manner an arrest should be made, the local authorities shall have due regard to the interests of navigation.

5. Except as provided in Part XII or with respect to violations of laws and regulations adopted in accordance with Part V, the coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 28
Civil jurisdiction in relation to foreign ships

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. Paragraph 2 is without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

SUBSECTION C. RULES APPLICABLE TO WARSHIPS AND OTHER GOVERNMENT SHIPS OPERATED FOR NON-COMMERCIAL PURPOSES

Article 29
Definition of warships

For the purposes of this Convention, "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

Article 30
Non-compliance by warships with the laws and regulations of the coastal State

If any warship does not comply with the laws and regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance therewith which is made to it, the coastal State may require it to leave the territorial sea immediately.

Article 31
Responsibility of the flag State for damage caused by a warship or other government ship operated for non-commercial purposes

The flag State shall bear international responsibility for any loss or damage to the coastal State resulting from the non-compliance by a warship or other government ship operated for non-commercial purposes with the laws and regulations of the coastal State concerning passage through the territorial sea or with the provisions of this Convention or other rules of international law.

Article 32
Immunities of warships and other government ships operated for non-commercial purposes

With such exceptions as are contained in subsection A and in articles 30 and 31, nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

SECTION 4. CONTIGUOUS ZONE

Article 33
Contiguous zone

1. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:

(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;

(b) punish infringement of the above laws and regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

PART III

STRAITS USED FOR INTERNATIONAL NAVIGATION

SECTION 1. GENERAL PROVISIONS

Article 34
Legal status of waters forming straits used for international navigation

1. The régime of passage through straits used for international navigation established in this Part shall not in other respects affect the legal status of the waters forming such straits or the exercise by the States bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil.

2. The sovereignty or jurisdiction of the States bordering the straits is exercised subject to this Part and to other rules of international law.

Article 35
Scope of this Part

Nothing in this Part affects:

(a) any areas of internal waters within a strait, except where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such;

(b) the legal status of the waters beyond the territorial seas of States bordering straits as exclusive economic zones or high seas; or

(c) the legal régime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits.

Article 36
High seas routes or routes through exclusive economic zones through straits used for international navigation

This Part does not apply to a strait used for international navigation if there exists through the strait a route through the high seas or through an exclusive

economic zone of similar convenience with respect to navigational and hydrographical characteristics; in such routes, the other relevant Parts of this Convention, including the provisions regarding the freedoms of navigation and overflight, apply.

SECTION 2. TRANSIT PASSAGE

Article 37
Scope of this section

This section applies to straits which are used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

Article 38
Right of transit passage

1. In straits referred to in article 37, all ships and aircraft enjoy the right of transit passage, which shall not be impeded; except that, if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics.

2. Transit passage means the exercise in accordance with this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. However, the requirement of continuous and expeditious transit does not preclude passage through the strait for the purpose of entering, leaving or returning from a State bordering the strait, subject to the conditions of entry to that State.

3. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of this Convention.

Article 39
Duties of ships and aircraft during transit passage

1. Ships and aircraft, while exercising the right of transit passage, shall:

(a) proceed without delay through or over the strait;

(b) refrain from any threat or use of force against the sovereignty, territorial integrity or political independence of States bordering the strait, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;

(c) refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by *force majeure* or by distress;

(d) comply with other relevant provisions of this Part.

2. Ships in transit passage shall:

(a) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;

(b) comply with generally accepted international regulations, procedures and practices for the prevention, reduction and control of pollution from ships.

3. Aircraft in transit passage shall:

(a) observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft; state aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;

(b) at all times monitor the radio frequency assigned by the competent internationally designated air traffic control authority or the appropriate international distress radio frequency.

Article 40
Research and survey activities

During transit passage, foreign ships, including marine scientific research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the States bordering straits.

Article 41
Sea lanes and traffic separation schemes in straits used for international navigation

1. In conformity with this Part, States bordering straits may designate sea lanes and prescribe traffic separation schemes for navigation in straits where necessary to promote the safe passage of ships.

2. Such States may, when circumstances require, and after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by them.

3. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

4. Before designating or substituting sea lanes or prescribing or substituting traffic separation schemes, States bordering straits shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the States bordering the straits, after which the States may designate, prescribe or substitute them.

5. In respect of a strait where sea lanes or traffic separation schemes through the waters of two or more States bordering the strait are being proposed, the States concerned shall co-operate in formulating proposals in consultation with the competent international organization.

6. States bordering straits shall clearly indicate all sea lanes and traffic separation schemes designated or prescribed by them on charts to which due publicity shall be given.

7. Ships in transit passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

Article 42
Laws and regulations of States bordering straits relating to transit passage

1. Subject to the provisions of this section, States bordering straits may adopt laws and regulations relating to transit passage through straits, in respect of all or any of the following:

(a) the safety of navigation and the regulation of maritime traffic, as provided in article 41;

(b) the prevention, reduction and control of pollution, by giving effect to applicable international regulations regarding the discharge of oil, oily wastes and other noxious substances in the strait;

(c) with respect to fishing vessels, the prevention of fishing, including the stowage of fishing gear;

(d) the loading or unloading of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary laws and regulations of States bordering straits.

2. Such laws and regulations shall not discriminate in form or in fact among foreign ships or in their application have the practical effect of denying, hampering or impairing the right of transit passage as defined in this section.

3. States bordering straits shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of transit passage shall comply with such laws and regulations.

5. The flag State of a ship or the State of registry of an aircraft entitled to sovereign immunity which acts in a manner contrary to such laws and regulations or other provisions of this Part shall bear international responsibility for any loss or damage which results to States bordering straits.

Article 43
Navigational and safety aids and other improvements and the prevention, reduction and control of pollution

User States and States bordering a strait should by agreement co-operate:

(a) in the establishment and maintenance in a strait of necessary navigational and safety aids or other improvements in aid of international navigation; and

(b) for the prevention, reduction and control of pollution from ships.

Article 44
Duties of States bordering straits

States bordering straits shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which they have knowledge. There shall be no suspension of transit passage.

SECTION 3. INNOCENT PASSAGE

Article 45
Innocent passage

1. The régime of innocent passage, in accordance with Part II, section 3, shall apply in straits used for international navigation:

(a) excluded from the application of the régime of transit passage under article 38, paragraph 1; or

(b) between a part of the high seas or an exclusive economic zone and the territorial sea of a foreign State.

2. There shall be no suspension of innocent passage through such straits.

PART IV

ARCHIPELAGIC STATES

Article 46
Use of terms

For the purposes of this Convention:

(a) "archipelagic State" means a State constituted wholly by one or more archipelagos and may include other islands;

(b) "archipelago" means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

Article 47
Archipelagic baselines

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.

2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.

3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.

6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.

7. For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.

8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted.

9. The archipelagic State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Article 48
Measurement of the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf

The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from archipelagic baselines drawn in accordance with article 47.

Article 49
Legal status of archipelagic waters, of the air space over archipelagic waters and of their bed and subsoil

1. The sovereignty of an archipelagic State extends to the waters enclosed by the archipelagic baselines drawn in accordance with article 47, described as archipelagic waters, regardless of their depth or distance from the coast.

2. This sovereignty extends to the air space over the archipelagic waters, as well as to their bed and subsoil, and the resources contained therein.

3. This sovereignty is exercised subject to this Part.

4. The régime of archipelagic sea lanes passage established in this Part shall not in other respects affect the status of the archipelagic waters, including the sea lanes, or the exercise by the archipelagic State of its sovereignty over such waters and their air space, bed and subsoil, and the resources contained therein.

Article 50
Delimitation of internal waters

Within its archipelagic waters, the archipelagic State may draw closing lines for the delimitation of internal waters, in accordance with articles 9, 10 and 11.

Article 51
Existing agreements, traditional fishing rights and existing submarine cables

1. Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

2. An archipelagic State shall respect existing submarine cables laid by other States and passing through its waters without making a landfall. An archipelagic State shall permit the maintenance and replacement of such cables upon receiving due notice of their location and the intention to repair or replace them.

Article 52
Right of innocent passage

1. Subject to article 53 and without prejudice to article 50, ships of all States enjoy the right of innocent passage through archipelagic waters, in accordance with Part II, section 3.

2. The archipelagic State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its archipelagic

waters the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

Article 53
Right of archipelagic sea lanes passage

1. An archipelagic State may designate sea lanes and air routes thereabove, suitable for the continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic waters and the adjacent territorial sea.

2. All ships and aircraft enjoy the right of archipelagic sea lanes passage in such sea lanes and air routes.

3. Archipelagic sea lanes passage means the exercise in accordance with this Convention of the rights of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious and unobstructed transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

4. Such sea lanes and air routes shall traverse the archipelagic waters and the adjacent territorial sea and shall include all normal passage routes used as routes for international navigation or overflight through or over archipelagic waters and, within such routes, so far as ships are concerned, all normal navigational channels, provided that duplication of routes of similar convenience between the same entry and exit points shall not be necessary.

5. Such sea lanes and air routes shall be defined by a series of continuous axis lines from the entry points of passage routes to the exit points. Ships and aircraft in archipelagic sea lanes passage shall not deviate more than 25 nautical miles to either side of such axis lines during passage, provided that such ships and aircraft shall not navigate closer to the coasts than 10 per cent of the distance between the nearest points on islands bordering the sea lane.

6. An archipelagic State which designates sea lanes under this article may also prescribe traffic separation schemes for the safe passage of ships through narrow channels in such sea lanes.

7. An archipelagic State may, when circumstances require, after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by it.

8. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

9. In designating or substituting sea lanes or prescribing or substituting traffic separation schemes, an archipelagic State shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe or substitute them.

10. The archipelagic State shall clearly indicate the axis of the sea lanes and the traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.

11. Ships in archipelagic sea lanes passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

12. If an archipelagic State does not designate sea lanes or air routes, the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.

Article 54
Duties of ships and aircraft during their passage, research and survey activities, duties of the archipelagic State and laws and regulations of the archipelagic State relating to archipelagic sea lanes passage

Articles 39, 40, 42 and 44 apply *mutatis mutandis* to archipelagic sea lanes passage.

PART V

EXCLUSIVE ECONOMIC ZONE

Article 55
Specific legal régime of the exclusive economic zone

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal régime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Article 56
Rights, jurisdiction and duties of the coastal State in the exclusive economic zone

1. In the exclusive economic zone, the coastal State has:
(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
(b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:
  (i) the establishment and use of artificial islands, installations and structures;
  (ii) marine scientific research;
  (iii) the protection and preservation of the marine environment;
(c) other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article with respect to the sea-bed and subsoil shall be exercised in accordance with Part VI.

Article 57
Breadth of the exclusive economic zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 58
Rights and duties of other States in the exclusive economic zone

1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.

2. Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.

3. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

Article 59
Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the exclusive economic zone

In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

Article 60
Artificial islands, installations and structures in the exclusive economic zone

1. In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:

(a) artificial islands;

(b) installations and structures for the purposes provided for in article 56 and other economic purposes;

(c) installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard

to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

5. The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization. Due notice shall be given of the extent of safety zones.

6. All ships must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones.

7. Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

8. Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 61
Conservation of the living resources

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

2. The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organizations, whether subregional, regional or global, shall co-operate to this end.

3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global.

4. In taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

5. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participa-

tion by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Article 62
Utilization of the living resources

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to article 61.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.

3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 69 and 70, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with this Convention and may relate, *inter alia*, to the following:

(a) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which, in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;

(b) determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;

(c) regulating seasons and areas of fishing, the types, sizes and amount of gear, and the types, sizes and number of fishing vessels that may be used;

(d) fixing the age and size of fish and other species that may be caught;

(e) specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;

(f) requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

(g) the placing of observers or trainees on board such vessels by the coastal State;

(h) the landing of all or any part of the catch by such vessels in the ports of the coastal State;

(i) terms and conditions relating to joint ventures or other co-operative arrangements;

(j) requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the coastal State's capability of undertaking fisheries research;

(k) enforcement procedures.

5. Coastal States shall give due notice of conservation and management laws and regulations.

Article 63
Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to co-ordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

Article 64
Highly migratory species

1. The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall co-operate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall co-operate to establish such an organization and participate in its work.

2. The provisions of paragraph 1 apply in addition to the other provisions of this Part.

Article 65
Marine mammals

Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall co-operate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

Article 66
Anadromous stocks

1. States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters landward of the outer limits of its exclusive economic zone and for fishing provided for in paragraph 3(b). The State of origin may, after consultations

with the other States referred to in paragraphs 3 and 4 fishing these stocks, establish total allowable catches for stocks originating in its rivers.

3. (a) Fisheries for anadromous stocks shall be conducted only in waters landward of the outer limits of exclusive economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin. With respect to such fishing beyond the outer limits of the exclusive economic zone, States concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and the needs of the State of origin in respect of these stocks.

(b) The State of origin shall co-operate in minimizing economic dislocation in such other States fishing these stocks, taking into account the normal catch and the mode of operations of such States, and all the areas in which such fishing has occurred.

(c) States referred to in subparagraph (b), participating by agreement with the State of origin in measures to renew anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvesting of stocks originating in its rivers.

(d) Enforcement of regulations regarding anadromous stocks beyond the exclusive economic zone shall be by agreement between the State of origin and the other States concerned.

4. In cases where anadromous stocks migrate into or through the waters landward of the outer limits of the exclusive economic zone of a State other than the State of origin, such State shall co-operate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing these stocks shall make arrangements for the implementation of the provisions of this article, where appropriate, through regional organizations.

Article 67
Catadromous species

1. A coastal State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of these species and shall ensure the ingress and egress of migrating fish.

2. Harvesting of catadromous species shall be conducted only in waters landward of the outer limits of exclusive economic zones. When conducted in exclusive economic zones, harvesting shall be subject to this article and the other provisions of this Convention concerning fishing in these zones.

3. In cases where catadromous fish migrate through the exclusive economic zone of another State, whether as juvenile or maturing fish, the management, including harvesting, of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the other State concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 68
Sedentary species

This Part does not apply to sedentary species as defined in article 77, paragraph 4.

Article 69
Right of land-locked States

1. Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

(a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;

(b) the extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;

(c) the extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;

(d) the nutritional needs of the populations of the respective States.

3. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall co-operate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account.

4. Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

5. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 70
Right of geographically disadvantaged States

1. Geographically disadvantaged States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographi-

cal circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. For the purposes of this Part, "geographically disadvantaged States" means coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own.

3. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

(a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;

(b) the extent to which the geographically disadvantaged State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;

(c) the extent to which other geographically disadvantaged States and landlocked States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;

(d) the nutritional needs of the populations of the respective States.

4. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall co-operate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing geographically disadvantaged States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 3 shall also be taken into account.

5. Developed geographically disadvantaged States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

6. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to geographically disadvantaged States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 71
Non-applicability of articles 69 and 70

The provisions of articles 69 and 70 do not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

Article 72
Restrictions on transfer of rights

1. Rights provided under articles 69 and 70 to exploit living resources shall not be directly or indirectly transferred to third States or their nationals by lease or licence, by establishing joint ventures or in any other manner which has the effect of such transfer unless otherwise agreed by the States concerned.

2. The foregoing provision does not preclude the States concerned from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights pursuant to articles 69 and 70, provided that it does not have the effect referred to in paragraph 1.

Article 73
Enforcement of laws and regulations of the coastal State

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.

2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.

3. Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

Article 74
Delimitation of the exclusive economic zone between States with opposite or adjacent coasts

1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

Article 75
Charts and lists of geographical co-ordinates

1. Subject to this Part, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 74 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where

appropriate, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

PART VI

CONTINENTAL SHELF

Article 76
Definition of the continental shelf

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

2. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 to 6.

3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the sea-bed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

4. (a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:

   (i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or

   (ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.

(b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

5. The fixed points comprising the line of the outer limits of the continental shelf on the sea-bed, drawn in accordance with paragraph 4 (a)(i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

6. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

7. The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude.

8. Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

Article 77
Rights of the coastal State over the continental shelf

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

Article 78
Legal status of the superjacent waters and air space and the rights and freedoms of other States

1. The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.

2. The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

Article 79
Submarine cables and pipelines on the continental shelf

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention,

reduction and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.

4. Nothing in this Part affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

5. When laying submarine cables or pipelines, States shall have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

Article 80
Artificial islands, installations and structures on the continental shelf

Article 60 applies *mutatis mutandis* to artificial islands, installations and structures on the continental shelf.

Article 81
Drilling on the continental shelf

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

Article 82
Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical miles

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connection with exploitation.

3. A developing State which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.

4. The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them.

Article 83
Delimitation of the continental shelf between States with opposite or adjacent coasts

1. The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law,

as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement.

Article 84
Charts and lists of geographical co-ordinates

1. Subject to this Part, the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 83 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations and, in the case of those showing the outer limit lines of the continental shelf, with the Secretary-General of the Authority.

Article 85
Tunnelling

This Part does not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling, irrespective of the depth of water above the subsoil.

PART VII

HIGH SEAS

SECTION 1. GENERAL PROVISIONS

Article 86
Application of the provisions of this Part

The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58.

Article 87
Freedom of the high seas

1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Con-

vention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:

(a) freedom of navigation;
(b) freedom of overflight;
(c) freedom to lay submarine cables and pipelines, subject to Part VI;
(d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;
(e) freedom of fishing, subject to the conditions laid down in section 2;
(f) freedom of scientific research, subject to Parts VI and XIII.

2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.

Article 88
Reservation of the high seas for peaceful purposes

The high seas shall be reserved for peaceful purposes.

Article 89
Invalidity of claims of sovereignty over the high seas

No State may validly purport to subject any part of the high seas to its sovereignty.

Article 90
Right of navigation

Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas.

Article 91
Nationality of ships

1. Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.

2. Every State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 92
Status of ships

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 93
Ships flying the flag of the United Nations, its specialized agencies and the International Atomic Energy Agency

The preceding articles do not prejudice the question of ships employed on the official service of the United Nations, its specialized agencies or the International Atomic Energy Agency, flying the flag of the organization.

Article 94
Duties of the flag State

1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular every State shall:

(a) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and

(b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

3. Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to:

(a) the construction, equipment and seaworthiness of ships;

(b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;

(c) the use of signals, the maintenance of communications and the prevention of collisions.

4. Such measures shall include those necessary to ensure:

(a) that each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;

(b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;

(c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio.

5. In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.

6. A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State. Upon receiving such a report, the flag State shall investigate the matter and, if appropriate, take any action necessary to remedy the situation.

7. Each State shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to ships or installations of another State or to the marine environment. The flag State and the other State shall co-operate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation.

Article 95
Immunity of warships on the high seas

Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

Article 96
Immunity of ships used only on government non-commercial service

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 97
Penal jurisdiction in matters of collision or any other incident of navigation

1. In the event of a collision or any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such person except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 98
Duty to render assistance

1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

(a) to render assistance to any person found at sea in danger of being lost;

(b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Article 99
Prohibition of the transport of slaves

Every State shall take effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

Article 100
Duty to co-operate in the repression of piracy

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 101
Definition of piracy

Piracy consists of any of the following acts:

(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Article 102
Piracy by a warship, government ship or government aircraft whose crew has mutinied

The acts of piracy, as defined in article 101, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft.

Article 103
Definition of a pirate ship or aircraft

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 104
Retention or loss of the nationality of a pirate ship or aircraft

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 105
Seizure of a pirate ship or aircraft

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 106
Liability for seizure without adequate grounds

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft for any loss or damage caused by the seizure.

Article 107

Ships and aircraft which are entitled to seize on account of piracy

A seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 108

Illicit traffic in narcotic drugs or psychotropic substances

1. All States shall co-operate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas contrary to international conventions.

2. Any State which has reasonable grounds for believing that a ship flying its flag is engaged in illicit traffic in narcotic drugs or psychotropic substances may request the co-operation of other States to suppress such traffic.

Article 109

Unauthorized broadcasting from the high seas

1. All States shall co-operate in the suppression of unauthorized broadcasting from the high seas.

2. For the purposes of this Convention, "unauthorized broadcasting" means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.

3. Any person engaged in unauthorized broadcasting may be prosecuted before the court of:

(a) the flag State of the ship;
(b) the State of registry of the installation;
(c) the State of which the person is a national;
(d) any State where the transmissions can be received; or
(e) any State where authorized radio communication is suffering interference.

4. On the high seas, a State having jurisdiction in accordance with paragraph 3 may, in conformity with article 110, arrest any person or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.

Article 110

Right of visit

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters on the high seas a foreign ship, other than a ship entitled to complete immunity in accordance with articles 95 and 96, is not justified in boarding it unless there is reasonable ground for suspecting that:

(a) the ship is engaged in piracy;
(b) the ship is engaged in the slave trade;
(c) the ship is engaged in unauthorized broadcasting and the flag State of the warship has jurisdiction under article 109;
(d) the ship is without nationality; or
(e) though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in paragraph 1, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the

documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

4. These provisions apply *mutatis mutandis* to military aircraft.

5. These provisions also apply to any other duly authorized ships or aircraft clearly marked and identifiable as being on government service.

Article 111
Right of hot pursuit

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones.

3. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.

4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship is within the limits of the territorial sea, or, as the case may be, within the contiguous zone or the exclusive economic zone or above the continental shelf. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

6. Where hot pursuit is effected by an aircraft:

(a) the provisions of paragraphs 1 to 4 shall apply *mutatis mutandis*;

(b) the aircraft giving the order to stop must itself actively pursue the ship until a ship or another aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest outside the territorial sea that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

7. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent

authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the exclusive economic zone or the high seas, if the circumstances rendered this necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

Article 112
Right to lay submarine cables and pipelines

1. All States are entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.

2. Article 79, paragraph 5, applies to such cables and pipelines.

Article 113
Breaking or injury of a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable, shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 114
Breaking or injury by owners of a submarine cable or pipeline of another submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to provide that, if persons subject to its jurisdiction who are the owners of a submarine cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

Article 115
Indemnity for loss incurred in avoiding injury to a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

SECTION 2. CONSERVATION AND MANAGEMENT OF THE LIVING RESOURCES OF THE HIGH SEAS

Article 116
Right to fish on the high seas

All States have the right for their nationals to engage in fishing on the high seas subject to:

(a) their treaty obligations;
(b) the rights and duties as well as the interests of coastal States provided for, *inter alia*, in article 63, paragraph 2, and articles 64 to 67; and
(c) the provisions of this section.

Article 117
Duty of States to adopt with respect to their nationals measures for the conservation of the living resources of the high seas

All States have the duty to take, or to co-operate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

Article 118
Co-operation of States in the conservation and management of living resources

States shall co-operate with each other in the conservation and management of living resources in the areas of the high seas. States whose nationals exploit identical living resources, or different living resources in the same area, shall enter into negotiations with a view to taking the measures necessary for the conservation of the living resources concerned. They shall, as appropriate, co-operate to establish subregional or regional fisheries organizations to this end.

Article 119
Conservation of the living resources of the high seas

1. In determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall:
(a) take measures which are designed, on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
(b) take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

2. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned.

3. States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State.

Article 120
Marine mammals

Article 65 also applies to the conservation and management of marine mammals in the high seas.

PART VIII

REGIME OF ISLANDS

Article 121
Régime of islands

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.

3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

PART IX

ENCLOSED OR SEMI-ENCLOSED SEAS

Article 122
Definition

For the purposes of this Convention, "enclosed or semi-enclosed sea" means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.

Article 123
Co-operation of States bordering enclosed or semi-enclosed seas

States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

(a) to co-ordinate the management, conservation, exploration and exploitation of the living resources of the sea;

(b) to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;

(c) to co-ordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;

(d) to invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.

PART X

RIGHT OF ACCESS OF LAND-LOCKED STATES TO AND FROM THE SEA AND FREEDOM OF TRANSIT

Article 124
Use of terms

1. For the purposes of this Convention:

(a) "land-locked State" means a State which has no sea-coast;

(b) "transit State" means a State, with or without a sea-coast, situated between a land-locked State and the sea, through whose territory traffic in transit passes;

(c) "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;

(d) "means of transport" means:

(i) railway rolling stock, sea, lake and river craft and road vehicles;

(ii) where local conditions so require, porters and pack animals.

2. Land-locked States and transit States may, by agreement between them, include as means of transport pipelines and gas lines and means of transport other than those included in paragraph 1.

Article 125
Right of access to and from the sea and freedom of transit

1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention including those relating to the freedom of the high seas and the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territory of transit States by all means of transport.

2. The terms and modalities for exercising freedom of transit shall be agreed between the land-locked States and transit States concerned through bilateral, subregional or regional agreements.

3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this Part for land-locked States shall in no way infringe their legitimate interests.

Article 126
Exclusion of application of the most-favoured-nation clause

The provisions of this Convention, as well as special agreements relating to the exercise of the right of access to and from the sea, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

Article 127
Customs duties, taxes and other charges

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connection with such traffic.

2. Means of transport in transit and other facilities provided for and used by land-locked States shall not be subject to taxes or charges higher than those levied for the use of means of transport of the transit State.

Article 128
Free zones and other customs facilities

For the convenience of traffic in transit, free zones or other customs facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

Article 129
Co-operation in the construction and improvement of means of transport

Where there are no means of transport in transit States to give effect to the freedom of transit or where the existing means, including the port installations and equipment, are inadequate in any respect, the transit States and land-locked States concerned may co-operate in constructing or improving them.

Article 130
Measures to avoid or eliminate delays or other difficulties of a technical nature in traffic in transit

1. Transit States shall take all appropriate measures to avoid delays or other difficulties of a technical nature in traffic in transit.

2. Should such delays or difficulties occur, the competent authorities of the transit States and land-locked States concerned shall co-operate towards their expeditious elimination.

Article 131
Equal treatment in maritime ports

Ships flying the flag of land-locked States shall enjoy treatment equal to that accorded to other foreign ships in maritime ports.

Article 132
Grant of greater transit facilities

This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in this Convention and which are agreed between States Parties to this Convention or granted by a State Party. This Convention also does not preclude such grant of greater facilities in the future.

PART XI

THE AREA

SECTION 1. GENERAL PROVISIONS

Article 133
Use of terms

For the purposes of this Part:

(a) "resources" means all solid, liquid or gaseous mineral resources *in situ* in the Area at or beneath the sea-bed, including polymetallic nodules;

(b) resources, when recovered from the Area, are referred to as "minerals".

Article 134
Scope of this Part

1. This Part applies to the Area.

2. Activities in the Area shall be governed by the provisions of this Part.

3. The requirements concerning deposit of, and publicity to be given to, the charts or lists of geographical co-ordinates showing the limits referred to in article 1, paragraph 1(1), are set forth in Part VI.

4. Nothing in this article affects the establishment of the outer limits of the continental shelf in accordance with Part VI or the validity of agreements relating to delimitation between States with opposite or adjacent coasts.

Article 135
Legal status of the superjacent waters and air space

Neither this Part nor any rights granted or exercised pursuant thereto shall affect the legal status of the waters superjacent to the Area or that of the air space above those waters.

SECTION 2. PRINCIPLES GOVERNING THE AREA

Article 136
Common heritage of mankind

The Area and its resources are the common heritage of mankind.

Article 137
Legal status of the Area and its resources

1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized.

2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alien-

ated in accordance with this Part and the rules, regulations and procedures of the Authority.

3. No State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized.

Article 138
General conduct of States in relation to the Area

The general conduct of States in relation to the Area shall be in accordance with the provisions of this Part, the principles embodied in the Charter of the United Nations and other rules of international law in the interests of maintaining peace and security and promoting international co-operation and mutual understanding.

Article 139
Responsibility to ensure compliance and liability for damage

1. States Parties shall have the responsibility to ensure that activities in the Area, whether carried out by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, shall be carried out in conformity with this Part. The same responsibility applies to international organizations for activities in the Area carried out by such organizations.

2. Without prejudice to the rules of international law and Annex III, article 22, damage caused by the failure of a State Party or international organization to carry out its responsibilities under this Part shall entail liability; States Parties or international organizations acting together shall bear joint and several liability. A State Party shall not however be liable for damage caused by any failure to comply with this Part by a person whom it has sponsored under article 153, paragraph 2(b), if the State Party has taken all necessary and appropriate measures to secure effective compliance under article 153, paragraph 4, and Annex III, article 4, paragraph 4.

3. States Parties that are members of international organizations shall take appropriate measures to ensure the implementation of this article with respect to such organizations.

Article 140
Benefit of mankind

1. Activities in the Area shall, as specifically provided for in this Part, be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of developing States and of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.

2. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism, on a non-discriminatory basis, in accordance with article 160, paragraph 2(f)(i).

Article 141
Use of the Area exclusively for peaceful purposes

The Area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination and without prejudice to the other provisions of this Part.

Article 142
Rights and legitimate interests of coastal States

1. Activities in the Area, with respect to resource deposits in the Area which lie across limits of national jurisdiction, shall be conducted with due regard to the rights and legitimate interests of any coastal State across whose jurisdiction such deposits lie.

2. Consultations, including a system of prior notification, shall be maintained with the State concerned, with a view to avoiding infringement of such rights and interests. In cases where activities in the Area may result in the exploitation of resources lying within national jurisdiction, the prior consent of the coastal State concerned shall be required.

3. Neither this Part nor any rights granted or exercised pursuant thereto shall affect the rights of coastal States to take such measures consistent with the relevant provisions of Part XII as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline, or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area.

Article 143
Marine scientific research

1. Marine scientific research in the Area shall be carried out exclusively for peaceful purposes and for the benefit of mankind as a whole, in accordance with Part XIII.

2. The Authority may carry out marine scientific research concerning the Area and its resources, and may enter into contracts for that purpose. The Authority shall promote and encourage the conduct of marine scientific research in the Area, and shall co-ordinate and disseminate the results of such research and analysis when available.

3. States Parties may carry out marine scientific research in the Area. States Parties shall promote international co-operation in marine scientific research in the Area by:

(a) participating in international programmes and encouraging co-operation in marine scientific research by personnel of different countries and of the Authority;

(b) ensuring that programmes are developed through the Authority or other international organizations as appropriate for the benefit of developing States and technologically less developed States with a view to:

  (i) strengthening their research capabilities;

  (ii) training their personnel and the personnel of the Authority in the techniques and applications of research;

  (iii) fostering the employment of their qualified personnel in research in the Area;

(c) effectively disseminating the results of research and analysis when available, through the Authority or other international channels when appropriate.

Article 144
Transfer of technology

1. The Authority shall take measures in accordance with this Convention:

(a) to acquire technology and scientific knowledge relating to activities in the Area; and

(b) to promote and encourage the transfer to developing States of such technology and scientific knowledge so that all States Parties benefit therefrom.

2. To this end the Authority and States Parties shall co-operate in promoting the transfer of technology and scientific knowledge relating to activities in the Area so that the Enterprise and all States Parties may benefit therefrom. In particular they shall initiate and promote:

(a) programmes for the transfer of technology to the Enterprise and to developing States with regard to activities in the Area, including, *inter alia*, facilitating the access of the Enterprise and of developing States to the relevant technology, under fair and reasonable terms and conditions;

(b) measures directed towards the advancement of the technology of the Enterprise and the domestic technology of developing States, particularly by providing opportunities to personnel from the Enterprise and from developing States for training in marine science and technology and for their full participation in activities in the Area.

Article 145
Protection of the marine environment

Necessary measures shall be taken in accordance with this Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities. To this end the Authority shall adopt appropriate rules, regulations and procedures for *inter alia:*

(a) the prevention, reduction and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;

(b) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.

Article 146
Protection of human life

With respect to activities in the Area, necessary measures shall be taken to ensure effective protection of human life. To this end the Authority shall adopt appropriate rules, regulations and procedures to supplement existing international law as embodied in relevant treaties.

Article 147
Accommodation of activities in the Area and in the marine environment

1. Activities in the Area shall be carried out with reasonable regard for other activities in the marine environment.

2. Installations used for carrying out activities in the Area shall be subject to the following conditions:

(a) such installations shall be erected, emplaced and removed solely in accordance with this Part and subject to the rules, regulations and procedures of the Authority. Due notice must be given of the erection, em-

placement and removal of such installations, and permanent means for giving warning of their presence must be maintained;

(b) such installations may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity;

(c) safety zones shall be established around such installations with appropriate markings to ensure the safety of both navigation and the installations. The configuration and location of such safety zones shall not be such as to form a belt impeding the lawful access of shipping to particular maritime zones or navigation along international sea lanes;

(d) such installations shall be used exclusively for peaceful purposes;

(e) such installations do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

3. Other activities in the marine environment shall be conducted with reasonable regard for activities in the Area.

Article 148
Participation of developing States in activities in the Area

The effective participation of developing States in activities in the Area shall be promoted as specifically provided for in this Part, having due regard to their special interests and needs, and in particular to the special need of the landlocked and geographically disadvantaged among them to overcome obstacles arising from their disadvantaged location, including remoteness from the Area and difficulty of access to and from it.

Article 149
Archaeological and historical objects

All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin.

SECTION 3. DEVELOPMENT OF RESOURCES OF THE AREA

Article 150
Policies relating to activities in the Area

Activities in the Area shall, as specifically provided for in this Part, be carried out in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international co-operation for the over-all development of all countries, especially developing States, and with a view to ensuring:

(a) the development of the resources of the Area;

(b) orderly, safe and rational management of the resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of conservation, the avoidance of unnecessary waste;

(c) the expansion of opportunities for participation in such activities consistent in particular with articles 144 and 148;

(d) participation in revenues by the Authority and the transfer of technology to the Enterprise and developing States as provided for in this Convention;

(e) increased availability of the minerals derived from the Area as needed in conjunction with minerals derived from other sources, to ensure supplies to consumers of such minerals;

(f) the promotion of just and stable prices remunerative to producers and fair to consumers for minerals derived both from the Area and from other sources, and the promotion of long-term equilibrium between supply and demand;

(g) the enhancement of opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area and the prevention of monopolization of activities in the Area;

(h) the protection of developing countries from adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, as provided in article 151;

(i) the development of the common heritage for the benefit of mankind as a whole; and

(j) conditions of access to markets for the imports of minerals produced from the resources of the Area and for imports of commodities produced from such minerals shall not be more favourable than the most favourable applied to imports from other sources.

Article 151
Production policies

1. (a) Without prejudice to the objectives set forth in article 150 and for the purpose of implementing subparagraph (h) of that article, the Authority, acting through existing forums or such new arrangements or agreements as may be appropriate, in which all interested parties, including both producers and consumers, participate, shall take measures necessary to promote the growth, efficiency and stability of markets for those commodities produced from the minerals derived from the Area, at prices remunerative to producers and fair to consumers. All States Parties shall co-operate to this end.

(b) The Authority shall have the right to participate in any commodity conference dealing with those commodities and in which all interested parties including both producers and consumers participate. The Authority shall have the right to become a party to any arrangement or agreement resulting from such conferences. Participation of the Authority in any organs established under those arrangements or agreements shall be in respect of production in the Area and in accordance with the relevant rules of those organs.

(c) The Authority shall carry out its obligations under the arrangements or agreements referred to in this paragraph in a manner which assures a uniform and non-discriminatory implementation in respect of all production in the Area of the minerals concerned. In doing so, the Authority shall act in a manner consistent with the terms of existing contracts and approved plans of work of the Enterprise.

2. (a) During the interim period specified in paragraph 3, commercial production shall not be undertaken pursuant to an approved plan of work until the operator has applied for and has been issued a production authorization by the Authority. Such production authorizations may not be applied for or issued more than five years prior to the planned commencement of commercial production under the plan of work unless, having regard to the nature and timing of project development, the rules, regulations and procedures of the Authority prescribe another period.

(b) In the application for the production authorization, the operator shall specify the annual quantity of nickel expected to be recovered under the approved plan of work. The application shall include a schedule of expenditures to be made by the operator after he has received the authorization which are reasonably calculated to allow him to begin commercial production on the date planned.

(c) For the purposes of subparagraphs (a) and (b), the Authority shall establish appropriate performance requirements in accordance with Annex III, article 17.

(d) The Authority shall issue a production authorization for the level of production applied for unless the sum of that level and the levels already authorized exceeds the nickel production ceiling, as calculated pursuant to paragraph 4 in the year of issuance of the authorization, during any year of planned production falling within the interim period.

(e) When issued, the production authorization and approved application shall become a part of the approved plan of work.

(f) If the operator's application for a production authorization is denied pursuant to subparagraph (d), the operator may apply again to the Authority at any time.

3. The interim period shall begin five years prior to 1 January of the year in which the earliest commercial production is planned to commence under an approved plan of work. If the earliest commercial production is delayed beyond the year originally planned, the beginning of the interim period and the production ceiling originally calculated shall be adjusted accordingly. The interim period shall last 25 years or until the end of the Review Conference referred to in article 155 or until the day when such new arrangements or agreements as are referred to in paragraph 1 enter into force, whichever is earliest. The Authority shall resume the power provided in this article for the remainder of the interim period if the said arrangements or agreements should lapse or become ineffective for any reason whatsoever.

4. (a) The production ceiling for any year of the interim period shall be the sum of:

(i) the difference between the trend line values for nickel consumption, as calculated pursuant to subparagraph (b), for the year immediately prior to the year of the earliest commercial production and the year immediately prior to the commencement of the interim period; and

(ii) sixty per cent of the difference between the trend line values for nickel consumption, as calculated pursuant to subparagraph (b), for the year for which the production authorization is being applied for and the year immediately prior to the year of the earliest commercial production.

(b) For the purposes of subparagraph (a):

(i) trend line values used for computing the nickel production ceiling shall be those annual nickel consumption values on a trend line

computed during the year in which a production authorization is issued. The trend line shall be derived from a linear regression of the logarithms of actual nickel consumption for the most recent 15-year period for which such data are available, time being the independent variable. This trend line shall be referred to as the original trend line;

(ii) if the annual rate of increase of the original trend line is less than 3 per cent, then the trend line used to determine the quantities referred to in subparagraph (a) shall instead be one passing through the original trend line at the value for the first year of the relevant 15-year period, and increasing at 3 per cent annually; provided however that the production ceiling established for any year of the interim period may not in any case exceed the difference between the original trend line value for that year and the original trend line value for the year immediately prior to the commencement of the interim period.

5. The Authority shall reserve to the Enterprise for its initial production a quantity of 38,000 metric tonnes of nickel from the available production ceiling calculated pursuant to paragraph 4.

6. (a) An operator may in any year produce less than or up to 8 per cent more than the level of annual production of minerals from polymetallic nodules specified in his production authorization, provided that the over-all amount of production shall not exceed that specified in the authorization. Any excess over 8 per cent and up to 20 per cent in any year, or any excess in the first and subsequent years following two consecutive years in which excesses occur, shall be negotiated with the Authority, which may require the operator to obtain a supplementary production authorization to cover additional production.

(b) Applications for such supplementary production authorizations shall be considered by the Authority only after all pending applications by operators who have not yet received production authorizations have been acted upon and due account has been taken of other likely applicants. The Authority shall be guided by the principle of not exceeding the total production allowed under the production ceiling in any year of the interim period. It shall not authorize the production under any plan of work of a quantity in excess of 46,500 metric tonnes of nickel per year.

7. The levels of production of other metals such as copper, cobalt and manganese extracted from the polymetallic nodules that are recovered pursuant to a production authorization should not be higher than those which would have been produced had the operator produced the maximum level of nickel from those nodules pursuant to this article. The Authority shall establish rules, regulations and procedures pursuant to Annex III, article 17, to implement this paragraph.

8. Rights and obligations relating to unfair economic practices under relevant multilateral trade agreements shall apply to the exploration for and exploitation of minerals from the Area. In the settlement of disputes arising under this provision, States Parties which are Parties to such multilateral trade agreements shall have recourse to the dispute settlement procedures of such agreements.

9. The Authority shall have the power to limit the level of production of minerals from the Area, other than minerals from polymetallic nodules, under such conditions and applying such methods as may be appropriate by adopting regulations in accordance with article 161, paragraph 8.

10. Upon the recommendation of the Council on the basis of advice from the Economic Planning Commission, the Assembly shall establish a system of

compensation or take other measures of economic adjustment assistance including co-operation with specialized agencies and other international organizations to assist developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area. The Authority on request shall initiate studies on the problems of those States which are likely to be most seriously affected with a view to minimizing their difficulties and assisting them in their economic adjustment.

Article 152
Exercise of powers and functions by the Authority

1. The Authority shall avoid discrimination in the exercise of its powers and functions, including the granting of opportunities for activities in the Area.

2. Nevertheless, special consideration for developing States, including particular consideration for the land-locked and geographically disadvantaged among them, specifically provided for in this Part shall be permitted.

Article 153
System of exploration and exploitation

1. Activities in the Area shall be organized, carried out and controlled by the Authority on behalf of mankind as a whole in accordance with this article as well as other relevant provisions of this Part and the relevant Annexes, and the rules, regulations and procedures of the Authority.

2. Activities in the Area shall be carried out as prescribed in paragraph 3:

(a) by the Enterprise, and

(b) in association with the Authority by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements provided in this Part and in Annex III.

3. Activities in the Area shall be carried out in accordance with a formal written plan of work drawn up in accordance with Annex III and approved by the Council after review by the Legal and Technical Commission. In the case of activities in the Area carried out as authorized by the Authority by the entities specified in paragraph 2(b), the plan of work shall, in accordance with Annex III, article 3, be in the form of a contract. Such contracts may provide for joint arrangements in accordance with Annex III, article 11.

4. The Authority shall exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of this Part and the Annexes relating thereto, and the rules, regulations and procedures of the Authority, and the plans of work approved in accordance with paragraph 3. States Parties shall assist the Authority by taking all measures necessary to ensure such compliance in accordance with article 139.

5. The Authority shall have the right to take at any time any measures provided for under this Part to ensure compliance with its provisions and the exercise of the functions of control and regulation assigned to it thereunder or under any contract. The Authority shall have the right to inspect all installations in the Area used in connection with activities in the Area.

6. A contract under paragraph 3 shall provide for security of tenure. Accordingly, the contract shall not be revised, suspended or terminated except in accordance with Annex III, articles 18 and 19.

Article 154
Periodic review

Every five years from the entry into force of this Convention, the Assembly shall undertake a general and systematic review of the manner in which the international régime of the Area established in this Convention has operated in practice. In the light of this review the Assembly may take, or recommend that other organs take, measures in accordance with the provisions and procedures of this Part and the Annexes relating thereto which will lead to the improvement of the operation of the régime.

Article 155
The Review Conference

1. Fifteen years from 1 January of the year in which the earliest commercial production commences under an approved plan of work, the Assembly shall convene a conference for the review of those provisions of this Part and the relevant Annexes which govern the system of exploration and exploitation of the resources of the Area. The Review Conference shall consider in detail, in the light of the experience acquired during that period:

(a) whether the provisions of this Part which govern the system of exploration and exploitation of the resources of the Area have achieved their aims in all respects, including whether they have benefited mankind as a whole;

(b) whether, during the 15-year period, reserved areas have been exploited in an effective and balanced manner in comparison with non-reserved areas;

(c) whether the development and use of the Area and its resources have been undertaken in such a manner as to foster healthy development of the world economy and balanced growth of international trade;

(d) whether monopolization of activities in the Area has been prevented;

(e) whether the policies set forth in articles 150 and 151 have been fulfilled; and

(f) whether the system has resulted in the equitable sharing of benefits derived from activities in the Area, taking into particular consideration the interests and needs of the developing States.

2. The Review Conference shall ensure the maintenance of the principle of the common heritage of mankind, the international régime designed to ensure equitable exploitation of the resources of the Area for the benefit of all countries, especially the developing States, and an Authority to organize, conduct and control activities in the Area. It shall also ensure the maintenance of the principles laid down in this Part with regard to the exclusion of claims or exercise of sovereignty over any part of the Area, the rights of States and their general conduct in relation to the Area, and their participation in activities in the Area in conformity with this Convention, the prevention of monopolization of activities in the Area, the use of the Area exclusively for peaceful purposes, economic aspects of activities in the Area, marine scientific research, transfer of technology, protection of the marine environment, protection of human life, rights of coastal States, the legal status of the waters superjacent to the Area and that of the air space above those waters and accommodation between activities in the Area and other activities in the marine environment.

3. The decision-making procedure applicable at the Review Conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea. The Conference shall make every effort to reach agreement on

any amendments by way of consensus and there should be no voting on such matters until all efforts at achieving consensus have been exhausted.

4. If, five years after its commencement, the Review Conference has not reached agreement on the system of exploration and exploitation of the resources of the Area, it may decide during the ensuing 12 months, by a three-fourths majority of the States Parties, to adopt and submit to the States Parties for ratification or accession such amendments changing or modifying the system as it determines necessary and appropriate. Such amendments shall enter into force for all States Parties 12 months after the deposit of instruments of ratification or accession by three fourths of the States Parties.

5. Amendments adopted by the Review Conference pursuant to this article shall not affect rights acquired under existing contracts.

SECTION 4. THE AUTHORITY

SUBSECTION A. GENERAL PROVISIONS

Article 156
Establishment of the Authority

1. There is hereby established the International Sea-Bed Authority, which shall function in accordance with this Part.

2. All States Parties are *ipso facto* members of the Authority.

3. Observers at the Third United Nations Conference on the Law of the Sea who have signed the Final Act and who are not referred to in article 305, paragraph 1(c), (d), (e) or (f), shall have the right to participate in the Authority as observers, in accordance with its rules, regulations and procedures.

4. The seat of the Authority shall be in Jamaica.

5. The Authority may establish such regional centres or offices as it deems necessary for the exercise of its functions.

Article 157
Nature and fundamental principles of the Authority

1. The Authority is the organization through which States Parties shall, in accordance with this Part, organize and control activities in the Area, particularly with a view to administering the resources of the Area.

2. The powers and functions of the Authority shall be those expressly conferred upon it by this Convention. The Authority shall have such incidental powers, consistent with this Convention, as are implicit in and necessary for the exercise of those powers and functions with respect to activities in the Area.

3. The Authority is based on the principle of the sovereign equality of all its members.

4. All members of the Authority shall fulfil in good faith the obligations assumed by them in accordance with this Part in order to ensure to all of them the rights and benefits resulting from membership.

Article 158
Organs of the Authority

1. There are hereby established, as the principal organs of the Authority, an Assembly, a Council and a Secretariat.

2. There is hereby established the Enterprise, the organ through which the Authority shall carry out the functions referred to in article 170, paragraph 1.

3. Such subsidiary organs as may be found necessary may be established in accordance with this Part.

4. Each principal organ of the Authority and the Enterprise shall be responsible for exercising those powers and functions which are conferred upon it. In exercising such powers and functions each organ shall avoid taking any action which may derogate from or impede the exercise of specific powers and functions conferred upon another organ.

SUBSECTION B. THE ASSEMBLY

Article 159
Composition, procedure and voting

1. The Assembly shall consist of all the members of the Authority. Each member shall have one representative in the Assembly, who may be accompanied by alternates and advisers.

2. The Assembly shall meet in regular annual sessions and in such special sessions as may be decided by the Assembly, or convened by the Secretary-General at the request of the Council or of a majority of the members of the Authority.

3. Sessions shall take place at the seat of the Authority unless otherwise decided by the Assembly.

4. The Assembly shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its President and such other officers as may be required. They shall hold office until a new President and other officers are elected at the next regular session.

5. A majority of the members of the Assembly shall constitute a quorum.

6. Each member of the Assembly shall have one vote.

7. Decisions on questions of procedure, including decisions to convene special sessions of the Assembly, shall be taken by a majority of the members present and voting.

8. Decisions on questions of substance shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members participating in the session. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Assembly by the majority required for decisions on questions of substance.

9. When a question of substance comes up for voting for the first time, the President may, and shall, if requested by at least one fifth of the members of the Assembly, defer the issue of taking a vote on that question for a period not exceeding five calendar days. This rule may be applied only once to any question, and shall not be applied so as to defer the question beyond the end of the session.

10. Upon a written request addressed to the President and sponsored by at least one fourth of the members of the Authority for an advisory opinion on the conformity with this Convention of a proposal before the Assembly on any matter, the Assembly shall request the Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea to give an advisory opinion thereon and shall defer voting on that proposal pending receipt of the advisory opinion

by the Chamber. If the advisory opinion is not received before the final week of the session in which it is requested, the Assembly shall decide when it will meet to vote upon the deferred proposal.

Article 160
Powers and functions

1. The Assembly, as the sole organ of the Authority consisting of all the members, shall be considered the supreme organ of the Authority to which the other principal organs shall be accountable as specifically provided for in this Convention. The Assembly shall have the power to establish general policies in conformity with the relevant provisions of this Convention on any question or matter within the competence of the Authority.

2. In addition, the powers and functions of the Assembly shall be:

(a) to elect the members of the Council in accordance with article 161;

(b) to elect the Secretary-General from among the candidates proposed by the Council;

(c) to elect, upon the recommendation of the Council, the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;

(d) to establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of these subsidiary organs due account shall be taken of the principle of equitable geographical distribution and of special interests and the need for members qualified and competent in the relevant technical questions dealt with by such organs;

(e) to assess the contributions of members to the administrative budget of the Authority in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations until the Authority shall have sufficient income from other sources to meet its administrative expenses;

(f) (i) to consider and approve, upon the recommendation of the Council, the rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of developing States and peoples who have not attained full independence or other self-governing status. If the Assembly does not approve the recommendations of the Council, the Assembly shall return them to the Council for reconsideration in the light of the views expressed by the Assembly;

(ii) to consider and approve the rules, regulations and procedures of the Authority, and any amendments thereto, provisionally adopted by the Council pursuant to article 162, paragraph 2 (o)(ii). These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area, the financial management and internal administration of the Authority, and, upon the recommendation of the Governing Board of the Enterprise, to the transfer of funds from the Enterprise to the Authority;

(g) to decide upon the equitable sharing of financial and other economic benefits derived from activities in the Area, consistent with this Convention and the rules, regulations and procedures of the Authority;

(h) to consider and approve the proposed annual budget of the Authority submitted by the Council;

(i) to examine periodic reports from the Council and from the Enterprise and special reports requested from the Council or any other organ of the Authority;

(j) to initiate studies and make recommendations for the purpose of promoting international co-operation concerning activities in the Area and encouraging the progressive development of international law relating thereto and its codification;

(k) to consider problems of a general nature in connection with activities in the Area arising in particular for developing States, as well as those problems for States in connection with activities in the Area that are due to their geographical location, particularly for land-locked and geographically disadvantaged States;

(l) to establish, upon the recommendation of the Council, on the basis of advice from the Economic Planning Commission, a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;

(m) to suspend the exercise of rights and privileges of membership pursuant to article 185;

(n) to discuss any question or matter within the competence of the Authority and to decide as to which organ of the Authority shall deal with any such question or matter not specifically entrusted to a particular organ, consistent with the distribution of powers and functions among the organs of the Authority.

SUBSECTION C. THE COUNCIL

Article 161
Composition, procedure and voting

1. The Council shall consist of 36 members of the Authority elected by the Assembly in the following order:

(a) four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent of total world consumption or have had net imports of more than 2 per cent of total world imports of the commodities produced from the categories of minerals to be derived from the Area, and in any case one State from the Eastern European (Socialist) region, as well as the largest consumer;

(b) four members from among the eight States Parties which have the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals, including at least one State from the Eastern European (Socialist) region;

(c) four members from among States Parties which on the basis of production in areas under their jurisdiction are major net exporters of the categories of minerals to be derived from the Area, including at least two developing States whose exports of such minerals have a substantial bearing upon their economies;

(d) six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, States which are major importers of the categories

of minerals to be derived from the Area, States which are potential producers of such minerals, and least developed States;

(e) eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this subparagraph. For this purpose, the geographical regions shall be Africa, Asia, Eastern European (Socialist), Latin America and Western European and Others.

2. In electing the members of the Council in accordance with paragraph 1, the Assembly shall ensure that:

(a) land-locked and geographically disadvantaged States are represented to a degree which is reasonably proportionate to their representation in the Assembly;

(b) coastal States, especially developing States, which do not qualify under paragraph 1(a), (b), (c) or (d) are represented to a degree which is reasonably proportionate to their representation in the Assembly;

(c) each group of States Parties to be represented on the Council is represented by those members, if any, which are nominated by that group.

3. Elections shall take place at regular sessions of the Assembly. Each member of the Council shall be elected for four years. At the first election, however, the term of one half of the members of each group referred to in paragraph 1 shall be two years.

4. Members of the Council shall be eligible for re-election, but due regard should be paid to the desirability of rotation of membership.

5. The Council shall function at the seat of the Authority, and shall meet as often as the business of the Authority may require, but not less than three times a year.

6. A majority of the members of the Council shall constitute a quorum.

7. Each member of the Council shall have one vote.

8. (a) Decisions on questions of procedure shall be taken by a majority of the members present and voting.

(b) Decisions on questions of substance arising under the following provisions shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 2, subparagraphs (f); (g); (h); (i); (n); (p); (v); article 191.

(c) Decisions on questions of substance arising under the following provisions shall be taken by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 1; article 162, paragraph 2, subparagraphs (a); (b); (c); (d); (e); (l); (q); (r); (s); (t); (u) in cases of non-compliance by a contractor or a sponsor; (w) provided that orders issued thereunder may be binding for not more than 30 days unless confirmed by a decision taken in accordance with subparagraph (d); article 162, paragraph 2, subparagraphs (x); (y); (z); article 163, paragraph 2; article 174, paragraph 3; Annex IV, article 11.

(d) Decisions on questions of substance arising under the following provisions shall be taken by consensus: article 162, paragraph 2(m) and (o); adoption of amendments to Part XI.

(e) For the purposes of subparagraphs (d), (f) and (g), "consensus" means the absence of any formal objection. Within 14 days of the submission of a proposal to the Council, the President of the Council shall determine

whether there would be a formal objection to the adoption of the proposal. If the President determines that there would be such an objection, the President shall establish and convene, within three days following such determination, a conciliation committee consisting of not more than nine members of the Council, with the President as chairman, for the purpose of reconciling the differences and producing a proposal which can be adopted by consensus. The committee shall work expeditiously and report to the Council within 14 days following its establishment. If the committee is unable to recommend a proposal which can be adopted by consensus, it shall set out in its report the grounds on which the proposal is being opposed.

(f) Decisions on questions not listed above which the Council is authorized to take by the rules, regulations and procedures of the Authority or otherwise shall be taken pursuant to the subparagraphs of this paragraph specified in the rules, regulations and procedures or, if not specified therein, then pursuant to the subparagraph determined by the Council if possible in advance, by consensus.

(g) When the issue arises as to whether a question is within subparagraph (a), (b), (c) or (d), the question shall be treated as being within the subparagraph requiring the higher or highest majority or consensus as the case may be, unless otherwise decided by the Council by the said majority or by consensus.

9. The Council shall establish a procedure whereby a member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote.

Article 162
Powers and functions

1. The Council is the executive organ of the Authority. The Council shall have the power to establish, in conformity with this Convention and the general policies established by the Assembly, the specific policies to be pursued by the Authority on any question or matter within the competence of the Authority.

2. In addition, the Council shall:

(a) supervise and co-ordinate the implementation of the provisions of this Part on all questions and matters within the competence of the Authority and invite the attention of the Assembly to cases of non-compliance;

(b) propose to the Assembly a list of candidates for the election of the Secretary-General;

(c) recommend to the Assembly candidates for the election of the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;

(d) establish, as appropriate, and with due regard to economy and efficiency, such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of subsidiary organs, emphasis shall be placed on the need for members qualified and competent in relevant technical matters dealt with by those organs provided that due account shall be taken of the principle of equitable geographical distribution and of special interests;

(e) adopt its rules of procedure including the method of selecting its president;

(f) enter into agreements with the United Nations or other international organizations on behalf of the Authority and within its competence, subject to approval by the Assembly;

(g) consider the reports of the Enterprise and transmit them to the Assembly with its recommendations;

(h) present to the Assembly annual reports and such special reports as the Assembly may request;

(i) issue directives to the Enterprise in accordance with article 170;

(j) approve plans of work in accordance with Annex III, article 6. The Council shall act upon each plan of work within 60 days of its submission by the Legal and Technical Commission at a session of the Council in accordance with the following procedures:

(i) if the Commission recommends the approval of a plan of work, it shall be deemed to have been approved by the Council if no member of the Council submits in writing to the President within 14 days a specific objection alleging non-compliance with the requirements of Annex III, article 6. If there is an objection, the conciliation procedure set forth in article 161, paragraph 8(e), shall apply. If, at the end of the conciliation procedure, the objection is still maintained, the plan of work shall be deemed to have been approved by the Council unless the Council disapproves it by consensus among its members excluding any State or States making the application or sponsoring the applicant;

(ii) if the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may approve the plan of work by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members participating in the session;

(k) approve plans of work submitted by the Enterprise in accordance with Annex IV, article 12, applying, *mutatis mutandis*, the procedures set forth in subparagraph (j);

(l) exercise control over activities in the Area in accordance with article 153, paragraph 4, and the rules, regulations and procedures of the Authority;

(m) take, upon the recommendation of the Economic Planning Commission, necessary and appropriate measures in accordance with article 150, subparagraph (h), to provide protection from the adverse economic effects specified therein;

(n) make recommendations to the Assembly, on the basis of advice from the Economic Planning Commission, for a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;

(o) (i) recommend to the Assembly rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of the developing States and peoples who have not attained full independence or other self-governing status;

(ii) adopt and apply provisionally, pending approval by the Assembly, the rules, regulations and procedures of the Authority, and any amendments thereto, taking into account the recommendations of the Legal and Technical Commission or other subordinate organ concerned. These rules, regulations and procedures shall relate to prospecting,

exploration and exploitation in the Area and the financial management and internal administration of the Authority. Priority shall be given to the adoption of rules, regulations and procedures for the exploration for and exploitation of polymetallic nodules. Rules, regulations and procedures for the exploration for and exploitation of any resource other than polymetallic nodules shall be adopted within three years from the date of a request to the Authority by any of its members to adopt such rules, regulations and procedures in respect of such resource. All rules, regulations and procedures shall remain in effect on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly;

(p) review the collection of all payments to be made by or to the Authority in connection with operations pursuant to this Part;

(q) make the selection from among applicants for production authorizations pursuant to Annex III, article 7, where such selection is required by that provision;

(r) submit the proposed annual budget of the Authority to the Assembly for its approval;

(s) make recommendations to the Assembly concerning policies on any question or matter within the competence of the Authority;

(t) make recommendations to the Assembly concerning suspension of the exercise of the rights and privileges of membership pursuant to article 185;

(u) institute proceedings on behalf of the Authority before the Sea-Bed Disputes Chamber in cases of non-compliance;

(v) notify the Assembly upon a decision by the Sea-Bed Disputes Chamber in proceedings instituted under subparagraph (u), and make any recommendations which it may find appropriate with respect to measures to be taken;

(w) issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area;

(x) disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;

(y) establish a subsidiary organ for the elaboration of draft financial rules, regulations and procedures relating to:

(i) financial management in accordance with articles 171 to 175; and

(ii) financial arrangements in accordance with Annex III, article 13 and article 17, paragraph 1(c);

(z) establish appropriate mechanisms for directing and supervising a staff of inspectors who shall inspect activities in the Area to determine whether this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with.

Article 163
Organs of the Council

1. There are hereby established the following organs of the Council:

(a) an Economic Planning Commission;

(b) a Legal and Technical Commission.

2. Each Commission shall be composed of 15 members, elected by the Council from among the candidates nominated by the States Parties. However, if

necessary, the Council may decide to increase the size of either Commission having due regard to economy and efficiency.

3. Members of a Commission shall have appropriate qualifications in the area of competence of that Commission. States Parties shall nominate candidates of the highest standards of competence and integrity with qualifications in relevant fields so as to ensure the effective exercise of the functions of the Commissions.

4. In the election of members of the Commissions, due account shall be taken of the need for equitable geographical distribution and the representation of special interests.

5. No State Party may nominate more than one candidate for the same Commission. No person shall be elected to serve on more than one Commission.

6. Members of the Commissions shall hold office for a term of five years. They shall be eligible for re-election for a further term.

7. In the event of the death, incapacity or resignation of a member of a Commission prior to the expiration of the term of office, the Council shall elect for the remainder of the term, a member from the same geographical region or area of interest.

8. Members of Commissions shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Commissions upon which they serve, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their duties for the Authority.

9. Each Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt.

10. Each Commission shall formulate and submit to the Council for approval such rules and regulations as may be necessary for the efficient conduct of the Commission's functions.

11. The decision-making procedures of the Commissions shall be established by the rules, regulations and procedures of the Authority. Recommendations to the Council shall, where necessary, be accompanied by a summary on the divergencies of opinion in the Commission.

12. Each Commission shall normally function at the seat of the Authority and shall meet as often as is required for the efficient exercise of its functions.

13. In the exercise of its functions, each Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter of such consultation.

Article 164
The Economic Planning Commission

1. Members of the Economic Planning Commission shall have appropriate qualifications such as those relevant to mining, management of mineral resource activities, international trade or international economics. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The Commission shall include at least two members from developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies.

2. The Commission shall:

(a) propose, upon the request of the Council, measures to implement decisions relating to activities in the Area taken in accordance with this Convention;

(b) review the trends of and the factors affecting supply, demand and prices of materials which may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing States among them;

(c) examine any situation likely to lead to the adverse effects referred to in article 150, subparagraph (h), brought to its attention by the State Party or States Parties concerned, and make appropriate recommendations to the Council;

(d) propose to the Council for submission to the Assembly, as provided in article 151, paragraph 10, a system of compensation or other measures of economic adjustment assistance for developing States which suffer adverse effects caused by activities in the Area. The Commission shall make the recommendations to the Council that are necesssary for the application of the system or other measures adopted by the Assembly in specific cases.

Article 165
The Legal and Technical Commission

1. Members of the Legal and Technical Commission shall have appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications.

2. The Commission shall:

(a) make recommendations with regard to the exercise of the Authority's functions upon the request of the Council;

(b) review formal written plans of work for activities in the Area in accordance with article 153, paragraph 3, and submit appropriate recommendations to the Council. The Commission shall base its recommendations solely on the grounds stated in Annex III and shall report fully thereon to the Council;

(c) supervise, upon the request of the Council, activities in the Area, where appropriate, in consultation and collaboration with any entity carrying out such activities or State or States concerned and report to the Council;

(d) prepare assessments of the environmental implications of activities in the Area;

(e) make recommendations to the Council on the protection of the marine environment, taking into account the views of recognized experts in that field;

(f) formulate and submit to the Council the rules, regulations and procedures referred to in article 162, paragraph 2(o), taking into account all relevant factors including assessments of the environmental implications of activities in the Area;

(g) keep such rules, regulations and procedures under review and recommend to the Council from time to time such amendments thereto as it may deem necessary or desirable;

(h) make recommendations to the Council regarding the establishment of a monitoring programme to observe, measure, evaluate and analyse, by recognized scientific methods, on a regular basis, the risks or effects of

pollution of the marine environment resulting from activities in the Area, ensure that existing regulations are adequate and are complied with and co-ordinate the implementation of the monitoring programme approved by the Council;

(i) recommend to the Council that proceedings be instituted on behalf of the Authority before the Sea-Bed Disputes Chamber, in accordance with this Part and the relevant Annexes taking into account particularly article 187;

(j) make recommendations to the Council with respect to measures to be taken, upon a decision by the Sea-Bed Disputes Chamber in proceedings instituted in accordance with subparagraph (i);

(k) make recommendations to the Council to issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area. Such recommendations shall be taken up by the Council on a priority basis;

(l) make recommendations to the Council to disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;

(m) make recommendations to the Council regarding the direction and supervision of a staff of inspectors who shall inspect activities in the Area to determine whether the provisions of this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with;

(n) calculate the production ceiling and issue production authorizations on behalf of the Authority pursuant to article 151, paragraphs 2 to 7, following any necessary selection among applicants for production authorizations by the Council in accordance with Annex III, article 7.

3. The members of the Commission shall, upon request by any State Party or other party concerned, be accompanied by a representative of such State or other party concerned when carrying out their function of supervision and inspection.

SUBSECTION D. THE SECRETARIAT

Article 166
The Secretariat

1. The Secretariat of the Authority shall comprise a Secretary-General and such staff as the Authority may require.

2. The Secretary-General shall be elected for four years by the Assembly from among the candidates proposed by the Council and may be re-elected.

3. The Secretary-General shall be the chief administrative officer of the Authority, and shall act in that capacity in all meetings of the Assembly, of the Council and of any subsidiary organ, and shall perform such other administrative functions as are entrusted to the Secretary-General by these organs.

4. The Secretary-General shall make an annual report to the Assembly on the work of the Authority.

Article 167
The staff of the Authority

1. The staff of the Authority shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the administrative functions of the Authority.

2. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

3. The staff shall be appointed by the Secretary-General. The terms and conditions on which they shall be appointed, remunerated and dismissed shall be in accordance with the rules, regulations and procedures of the Authority.

Article 168
International character of the Secretariat

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other source external to the Authority. They shall refrain from any action which might reflect on their position as international officials responsible only to the Authority. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities. Any violation of responsibilities by a staff member shall be submitted to the appropriate administrative tribunal as provided in the rules, regulations and procedures of the Authority.

2. The Secretary-General and the staff shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Authority, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their employment with the Authority.

3. Violations of the obligations of a staff member of the Authority set forth in paragraph 2 shall, on the request of a State Party affected by such violation, or a natural or juridical person, sponsored by a State Party as provided in article 153, paragraph 2(b), and affected by such violation, be submitted by the Authority against the staff member concerned to a tribunal designated by the rules, regulations and procedures of the Authority. The Party affected shall have the right to take part in the proceedings. If the tribunal so recommends, the Secretary-General shall dismiss the staff member concerned.

4. The rules, regulations and procedures of the Authority shall contain such provisions as are necessary to implement this article.

Article 169
Consultation and co-operation with international and non-governmental organizations

1. The Secretary-General shall, on matters within the competence of the Authority, make suitable arrangements, with the approval of the Council, for consultation and co-operation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations.

2. Any organization with which the Secretary-General has entered into an arrangement under paragraph 1 may designate representatives to attend meetings of the organs of the Authority as observers in accordance with the rules of procedure of these organs. Procedures shall be established for obtaining the views of such organizations in appropriate cases.

3. The Secretary-General may distribute to States Parties written reports submitted by the non-governmental organizations referred to in paragraph 1 on subjects in which they have special competence and which are related to the work of the Authority.

SUBSECTION E. THE ENTERPRISE

Article 170
The Enterprise

1. The Enterprise shall be the organ of the Authority which shall carry out activities in the Area directly, pursuant to article 153, paragraph 2(a), as well as the transporting, processing and marketing of minerals recovered from the Area.

2. The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity as is provided for in the Statute set forth in Annex IV. The Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority, as well as the general policies established by the Assembly, and shall be subject to the directives and control of the Council.

3. The Enterprise shall have its principal place of business at the seat of the Authority.

4. The Enterprise shall, in accordance with article 173, paragraph 2, and Annex IV, article 11, be provided with such funds as it may require to carry out its functions, and shall receive technology as provided in article 144 and other relevant provisions of this Convention.

SUBSECTION F. FINANCIAL ARRANGEMENTS OF THE AUTHORITY

Article 171
Funds of the Authority

The funds of the Authority shall include:

(a) assessed contributions made by members of the Authority in accordance with article 160, paragraph 2(e);

(b) funds received by the Authority pursuant to Annex III, article 13, in connection with activities in the Area;

(c) funds transferred from the Enterprise in accordance with Annex IV, article 10;

(d) funds borrowed pursuant to article 174;

(e) voluntary contributions made by members or other entities; and

(f) payments to a compensation fund, in accordance with article 151, paragraph 10, whose sources are to be recommended by the Economic Planning Commission.

Article 172
Annual budget of the Authority

The Secretary-General shall draft the proposed annual budget of the Authority and submit it to the Council. The Council shall consider the proposed annual

budget and submit it to the Assembly, together with any recommendations thereon. The Assembly shall consider and approve the proposed annual budget in accordance with article 160, paragraph 2(h).

Article 173
Expenses of the Authority

1. The contributions referred to in article 171, subparagraph (a), shall be paid into a special account to meet the administrative expenses of the Authority until the Authority has sufficient funds from other sources to meet those expenses.

2. The administrative expenses of the Authority shall be a first call upon the funds of the Authority. Except for the assessed contributions referred to in article 171, subparagraph (a), the funds which remain after payment of administrative expenses may, *inter alia:*

(a) be shared in accordance with article 140 and article 160, paragraph 2(g);

(b) be used to provide the Enterprise with funds in accordance with article 170, paragraph 4;

(c) be used to compensate developing States in accordance with article 151, paragraph 10, and article 160, paragraph 2(l).

Article 174
Borrowing power of the Authority

1. The Authority shall have the power to borrow funds.

2. The Assembly shall prescribe the limits on the borrowing power of the Authority in the financial regulations adopted pursuant to article 160, paragraph 2(f).

3. The Council shall exercise the borrowing power of the Authority.

4. States Parties shall not be liable for the debts of the Authority.

Article 175
Annual audit

The records, books and accounts of the Authority, including its annual financial statements, shall be audited annually by an independent auditor appointed by the Assembly.

SUBSECTION G. LEGAL STATUS, PRIVILEGES AND IMMUNITIES

Article 176
Legal status

The Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 177
Privileges and immunities

To enable the Authority to exercise its functions, it shall enjoy in the territory of each State Party the privileges and immunities set forth in this subsection. The privileges and immunities relating to the Enterprise shall be those set forth in Annex IV, article 13.

Article 178
Immunity from legal process

The Authority, its property and assets, shall enjoy immunity from legal process except to the extent that the Authority expressly waives this immunity in a particular case.

Article 179
Immunity from search and any form of seizure

The property and assets of the Authority, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Article 180
Exemption from restrictions, regulations, controls and moratoria

The property and assets of the Authority shall be exempt from restrictions, regulations, controls and moratoria of any nature.

Article 181
Archives and official communications of the Authority

1. The archives of the Authority, wherever located, shall be inviolable.

2. Proprietary data, industrial secrets or similar information and personnel records shall not be placed in archives which are open to public inspection.

3. With regard to its official communications, the Authority shall be accorded by each State Party treatment no less favourable than that accorded by that State to other international organizations.

Article 182
Privileges and immunities of certain persons connected with the Authority

Representatives of States Parties attending meetings of the Assembly, the Council or organs of the Assembly or the Council, and the Secretary-General and staff of the Authority, shall enjoy in the territory of each State Party:

(a) immunity from legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent or the Authority, as appropriate, expressly waives this immunity in a particular case;

(b) if they are not nationals of that State Party, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by that State to the representatives, officials and employees of comparable rank of other States Parties.

Article 183
Exemption from taxes and customs duties

1. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by this Convention, shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. The Authority shall not claim exemption from taxes which are no more than charges for services rendered.

2. When purchases of goods or services of substantial value necessary for the official activities of the Authority are made by or on behalf of the Authority, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by States Parties to grant exemption from such taxes or duties or provide for their reimbursement. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of the State Party which granted the exemption, except under conditions agreed with that State Party.

3. No tax shall be levied by States Parties on or in respect of salaries and emoluments paid or any other form of payment made by the Authority to the Secretary-General and staff of the Authority, as well as experts performing missions for the Authority, who are not their nationals.

SUBSECTION H. SUSPENSION OF THE EXERCISE OF RIGHTS AND PRIVILEGES OF MEMBERS

Article 184
Suspension of the exercise of voting rights

A State Party which is in arrears in the payment of its financial contributions to the Authority shall have no vote if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Article 185
Suspension of exercise of rights and privileges of membership

1. A State Party which has grossly and persistently violated the provisions of this Part may be suspended from the exercise of the rights and privileges of membership by the Assembly upon the recommendation of the Council.

2. No action may be taken under paragraph 1 until the Sea-Bed Disputes Chamber has found that a State Party has grossly and persistently violated the provisions of this Part.

SECTION 5. SETTLEMENT OF DISPUTES AND ADVISORY OPINIONS

Article 186
Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea

The establishment of the Sea-Bed Disputes Chamber and the manner in which it shall exercise its jurisdiction shall be governed by the provisions of this section, of Part XV and of Annex VI.

Article 187
Jurisdiction of the Sea-Bed Disputes Chamber

The Sea-Bed Disputes Chamber shall have jurisdiction under this Part and the Annexes relating thereto in disputes with respect to activities in the Area falling within the following categories:

(a) disputes between States Parties concerning the interpretation or application of this Part and the Annexes relating thereto;

(b) disputes between a State Party and the Authority concerning:

(i) acts or omissions of the Authority or of a State Party alleged to be in violation of this Part or the Annexes relating thereto or of rules, regulations and procedures of the Authority adopted in accordance therewith; or

(ii) acts of the Authority alleged to be in excess of jurisdiction or a misuse of power;

(c) disputes between parties to a contract, being States Parties, the Authority or the Enterprise, state enterprises and natural or juridical persons referred to in article 153, paragraph 2(b), concerning:

(i) the interpretation or application of a relevant contract or a plan of work; or

(ii) acts or omissions of a party to the contract relating to activities in the Area and directed to the other party or directly affecting its legitimate interests;

(d) disputes between the Authority and a prospective contractor who has been sponsored by a State as provided in article 153, paragraph 2 (b), and has duly fulfilled the conditions referred to in Annex III, article 4, paragraph 6, and article 13, paragraph 2, concerning the refusal of a contract or a legal issue arising in the negotiation of the contract;

(e) disputes between the Authority and a State Party, a state enterprise or a natural or juridical person sponsored by a State Party as provided for in article 153, paragraph 2(b), where it is alleged that the Authority has incurred liability as provided in Annex III, article 22;

(f) any other disputes for which the jurisdiction of the Chamber is specifically provided in this Convention.

Article 188
Submission of disputes to a special chamber of the International Tribunal for the Law of the Sea or an ad hoc chamber of the Sea-Bed Disputes Chamber or to binding commercial arbitration

1. Disputes between States Parties referred to in article 187, subparagraph (a), may be submitted:

(a) at the request of the parties to the dispute, to a special chamber of the International Tribunal for the Law of the Sea to be formed in accordance with Annex VI, articles 15 and 17; or

(b) at the request of any party to the dispute, to an *ad hoc* chamber of the Sea-Bed Disputes Chamber to be formed in accordance with Annex VI, article 36.

2. (a) Disputes concerning the interpretation or application of a contract referred to in article 187, subparagraph (c)(i), shall be submitted, at the request of any party to the dispute, to binding commercial arbitration, unless the parties otherwise agree. A commercial arbitral tribunal to

which the dispute is submitted shall have no jurisdiction to decide any question of interpretation of this Convention. When the dispute also involves a question of the interpretation of Part XI and the Annexes relating thereto, with respect to activities in the Area, that question shall be referred to the Sea-Bed Disputes Chamber for a ruling.

(b) If, at the commencement of or in the course of such arbitration, the arbitral tribunal determines, either at the request of any party to the dispute or *proprio motu*, that its decision depends upon a ruling of the Sea-Bed Disputes Chamber, the arbitral tribunal shall refer such question to the Sea-Bed Disputes Chamber for such ruling. The arbitral tribunal shall then proceed to render its award in conformity with the ruling of the Sea-Bed Disputes Chamber.

(c) In the absence of a provision in the contract on the arbitration procedure to be applied in the dispute, the arbitration shall be conducted in accordance with the UNCITRAL Arbitration Rules or such other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority, unless the parties to the dispute otherwise agree.

Article 189
Limitation on jurisdiction with regard to decisions of the Authority

The Sea-Bed Disputes Chamber shall have no jurisdiction with regard to the exercise by the Authority of its discretionary powers in accordance with this Part; in no case shall it substitute its discretion for that of the Authority. Without prejudice to article 191, in exercising its jurisdiction pursuant to article 187, the Sea-Bed Disputes Chamber shall not pronounce itself on the question of whether any rules, regulations and procedures of the Authority are in conformity with this Convention, nor declare invalid any such rules, regulations and procedures. Its jurisdiction in this regard shall be confined to deciding claims that the application of any rules, regulations and procedures of the Authority in individual cases would be in conflict with the contractual obligations of the parties to the dispute or their obligations under this Convention, claims concerning excess of jurisdiction or misuse of power, and to claims for damages to be paid or other remedy to be given to the party concerned for the failure of the other party to comply with its contractual obligations or its obligations under this Convention.

Article 190
Participation and appearance of sponsoring States Parties in proceedings

1. If a natural or juridical person is a party to a dispute referred to in article 187, the sponsoring State shall be given notice thereof and shall have the right to participate in the proceedings by submitting written or oral statements.

2. If an action is brought against a State Party by a natural or juridical person sponsored by another State Party in a dispute referred to in article 187, subparagraph (c), the respondent State may request the State sponsoring that person to appear in the proceedings on behalf of that person. Failing such appearance, the respondent State may arrange to be represented by a juridical person of its nationality.

Article 191
Advisory opinions

The Sea-Bed Disputes Chamber shall give advisory opinions at the request of the Assembly or the Council on legal questions arising within the scope of their activities. Such opinions shall be given as a matter of urgency.

PART XII

PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

SECTION 1. GENERAL PROVISIONS

Article 192
General obligation

States have the obligation to protect and preserve the marine environment.

Article 193
Sovereign right of States to exploit their natural resources

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.

Article 194
Measures to prevent, reduce and control pollution of the marine environment

1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.

3. The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment. These measures shall include, *inter alia*, those designed to minimize to the fullest possible extent:

(a) the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;

(b) pollution from vessels, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels;

(c) pollution from installations and devices used in exploration or exploitation of the natural resources of the sea-bed and subsoil, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices;

(d) pollution from other installations and devices operating in the marine environment, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating

the design, construction, equipment, operation and manning of such installations or devices.

4. In taking measures to prevent, reduce or control pollution of the marine environment, States shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and in pursuance of their duties in conformity with this Convention.

5. The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

Article 195
Duty not to transfer damage or hazards or transform one type of pollution into another

In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Article 196
Use of technologies or introduction of alien or new species

1. States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.

2. This article does not affect the application of this Convention regarding the prevention, reduction and control of pollution of the marine environment.

SECTION 2. GLOBAL AND REGIONAL CO-OPERATION

Article 197
Co-operation on a global or regional basis

States shall co-operate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.

Article 198
Notification of imminent or actual damage

When a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations.

Article 199
Contingency plans against pollution

In the cases referred to in article 198, States in the area affected, in accordance with their capabilities, and the competent international organizations

shall co-operate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. To this end, States shall jointly develop and promote contingency plans for responding to pollution incidents in the marine environment.

Article 200
Studies, research programmes and exchange of information and data

States shall co-operate, directly or through competent international organizations, for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it, and its pathways, risks and remedies.

Article 201
Scientific criteria for regulations

In the light of the information and data acquired pursuant to article 200, States shall co-operate, directly or through competent international organizations, in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment.

SECTION 3. TECHNICAL ASSISTANCE

Article 202
Scientific and technical assistance to developing States

States shall, directly or through competent international organizations:

(a) promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment and the prevention, reduction and control of marine pollution. Such assistance shall include, *inter alia:*
  (i) training of their scientific and technical personnel;
  (ii) facilitating their participation in relevant international programmes;
  (iii) supplying them with necessary equipment and facilities;
  (iv) enhancing their capacity to manufacture such equipment;
  (v) advice on and developing facilities for research, monitoring, educational and other programmes;
(b) provide appropriate assistance, especially to developing States, for the minimization of the effects of major incidents which may cause serious pollution of the marine environment;
(c) provide appropriate assistance, especially to developing States, concerning the preparation of environmental assessments.

Article 203
Preferential treatment for developing States

Developing States shall, for the purposes of prevention, reduction and control of pollution of the marine environment or minimization of its effects, be granted preference by international organizations in:

(a) the allocation of appropriate funds and technical assistance; and
(b) the utilization of their specialized services.

SECTION 4. MONITORING AND ENVIRONMENTAL ASSESSMENT

Article 204
Monitoring of the risks or effects of pollution

1. States shall, consistent with the rights of other States, endeavour, as far as practicable, directly or through the competent international organizations, to observe, measure, evaluate and analyse, by recognized scientific methods, the risks or effects of pollution of the marine environment.

2. In particular, States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment.

Article 205
Publication of reports

States shall publish reports of the results obtained pursuant to article 204 or provide such reports at appropriate intervals to the competent international organizations, which should make them available to all States.

Article 206
Assessment of potential effects of activities

When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.

SECTION 5. INTERNATIONAL RULES AND NATIONAL LEGISLATION TO PREVENT, REDUCE AND CONTROL POLLUTION OF THE MARINE ENVIRONMENT

Article 207
Pollution from land-based sources

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Laws, regulations, measures, rules, standards and recommended practices and procedures referred to in paragraphs 1, 2 and 4 shall include those designed to minimize, to the fullest extent possible, the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment.

Article 208
Pollution from sea-bed activities subject to national jurisdiction

1. Coastal States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures.

4. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

5. States, acting especially through competent international organizations or diplomatic conference, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment referred to in paragraph 1. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

Article 209
Pollution from activities in the Area

1. International rules, regulations and procedures shall be established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area. Such rules, regulations and procedures shall be re-examined from time to time as necessary.

2. Subject to the relevant provisions of this section, States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from activities in the Area undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, as the case may be. The requirements of such laws and regulations shall be no less effective than the international rules, regulations and procedures referred to in paragraph 1.

Article 210
Pollution by dumping

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment by dumping.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall ensure that dumping is not carried out without the permission of the competent authorities of States.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf shall not be carried out without the express prior approval of the coastal State, which has the right to permit, regulate and control such dumping after due consideration of the matter with other States which by reason of their geographical situation may be adversely affected thereby.

6. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.

Article 211
Pollution from vessels

1. States, acting through the competent international organization or general diplomatic conference, shall establish international rules and standards to prevent, reduce and control pollution of the marine environment from vessels and promote the adoption, in the same manner, wherever appropriate, of routeing systems designed to minimize the threat of accidents which might cause pollution of the marine environment, including the coastline, and pollution damage to the related interests of coastal States. Such rules and standards shall, in the same manner, be re-examined from time to time as necessary.

2. States shall adopt laws and regulations for the prevention, reduction and control of pollution of the marine environment from vessels flying their flag or of their registry. Such laws and regulations shall at least have the same effect as that of generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

3. States which establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their off-shore terminals shall give due publicity to such requirements and shall communicate them to the competent international organization. Whenever such requirements are established in identical form by two or more coastal States in an endeavour to harmonize policy, the communication shall indicate which States are participating in such co-operative arrangements. Every State shall require the master of a vessel flying its flag or of its registry, when navigating within the territorial sea of a State participating in such co-operative arrangements, to furnish, upon the request of that State, information as to whether it is proceeding to a State of the same region participating in such co-operative arrangements and, if so, to indicate whether it complies with the port entry requirements of that State. This article is without prejudice to the continued exercise by a vessel of its right of innocent passage or to the application of article 25, paragraph 2.

4. Coastal States may, in the exercise of their sovereignty within their territorial sea, adopt laws and regulations for the prevention, reduction and control of marine pollution from foreign vessels, including vessels exercising the right of innocent passage. Such laws and regulations shall, in accordance with Part II, section 3, not hamper innocent passage of foreign vessels.

5. Coastal States, for the purpose of enforcement as provided for in section 6, may in respect of their exclusive economic zones adopt laws and regulations

for the prevention, reduction and control of pollution from vessels conforming to and giving effect to generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

6. (a) Where the international rules and standards referred to in paragraph 1 are inadequate to meet special circumstances and coastal States have reasonable grounds for believing that a particular, clearly defined area of their respective exclusive economic zones is an area where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognized technical reasons in relation to its oceanographical and ecological conditions, as well as its utilization or the protection of its resources and the particular character of its traffic, the coastal States, after appropriate consultations through the competent international organization with any other States concerned, may, for that area, direct a communication to that organization, submitting scientific and technical evidence in support and information on necessary reception facilities. Within 12 months after receiving such a communication, the organization shall determine whether the conditions in that area correspond to the requirements set out above. If the organization so determines, the coastal States may, for that area, adopt laws and regulations for the prevention, reduction and control of pollution from vessels implementing such international rules and standards or navigational practices as are made applicable, through the organization, for special areas. These laws and regulations shall not become applicable to foreign vessels until 15 months after the submission of the communication to the organization.

(b) The coastal States shall publish the limits of any such particular, clearly defined area.

(c) If the coastal States intend to adopt additional laws and regulations for the same area for the prevention, reduction and control of pollution from vessels, they shall, when submitting the aforesaid communication, at the same time notify the organization thereof. Such additional laws and regulations may relate to discharges or navigational practices but shall not require foreign vessels to observe design, construction, manning or equipment standards other than generally accepted international rules and standards; they shall become applicable to foreign vessels 15 months after the submission of the communication to the organization, provided that the organization agrees within 12 months after the submission of the communication.

7. The international rules and standards referred to in this article should include *inter alia* those relating to prompt notification to coastal States, whose coastline or related interests may be affected by incidents, including maritime casualties, which involve discharges or probability of discharges.

Article 212
Pollution from or through the atmosphere

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the atmosphere, applicable to the air space under their sovereignty and to vessels flying their flag or vessels or aircraft of their registry, taking into account internationally agreed rules, standards and recommended practices and procedures and the safety of air navigation.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution.

SECTION 6. ENFORCEMENT

Article 213
Enforcement with respect to pollution from land-based sources

States shall enforce their laws and regulations adopted in accordance with article 207 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from land-based sources.

Article 214
Enforcement with respect to pollution from sea-bed activities

States shall enforce their laws and regulations adopted in accordance with article 208 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment arising from or in connection with sea-bed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

Article 215
Enforcement with respect to pollution from activities in the Area

Enforcement of international rules, regulations and procedures established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area shall be governed by that Part.

Article 216
Enforcement with respect to pollution by dumping

1. Laws and regulations adopted in accordance with this Convention and applicable international rules and standards established through competent international organizations or diplomatic conference for the prevention, reduction and control of pollution of the marine environment by dumping shall be enforced:

(a) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;

(b) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;

(c) by any State with regard to acts of loading of wastes or other matter occurring within its territory or at its off-shore terminals.

2. No State shall be obliged by virtue of this article to institute proceedings when another State has already instituted proceedings in accordance with this article.

Article 217
Enforcement by flag States

1. States shall ensure compliance by vessels flying their flag or of their registry with applicable international rules and standards, established through the competent international organization or general diplomatic conference, and with their laws and regulations adopted in accordance with this Convention for the prevention, reduction and control of pollution of the marine environment from vessels and shall accordingly adopt laws and regulations and take other measures necessary for their implementation. Flag States shall provide for the effective enforcement of such rules, standards, laws and regulations, irrespective of where a violation occurs.

2. States shall, in particular, take appropriate measures in order to ensure that vessels flying their flag or of their registry are prohibited from sailing, until they can proceed to sea in compliance with the requirements of the international rules and standards referred to in paragraph 1, including requirements in respect of design, construction, equipment and manning of vessels.

3. States shall ensure that vessels flying their flag or of their registry carry on board certificates required by and issued pursuant to international rules and standards referred to in paragraph 1. States shall ensure that vessels flying their flag are periodically inspected in order to verify that such certificates are in conformity with the actual condition of the vessels. These certificates shall be accepted by other States as evidence of the condition of the vessels and shall be regarded as having the same force as certificates issued by them, unless there are clear grounds for believing that the condition of the vessel does not correspond substantially with the particulars of the certificates.

4. If a vessel commits a violation of rules and standards established through the competent international organization or general diplomatic conference, the flag State, without prejudice to articles 218, 220 and 228, shall provide for immediate investigation and where appropriate institute proceedings in respect of the alleged violation irrespective of where the violation occurred or where the pollution caused by such violation has occurred or has been spotted.

5. Flag States conducting an investigation of the violation may request the assistance of any other State whose co-operation could be useful in clarifying the circumstances of the case. States shall endeavour to meet appropriate requests of flag States.

6. States shall, at the written request of any State, investigate any violation alleged to have been committed by vessels flying their flag. If satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, flag States shall without delay institute such proceedings in accordance with their laws.

7. Flag States shall promptly inform the requesting State and the competent international organization of the action taken and its outcome. Such information shall be available to all States.

8. Penalties provided for by the laws and regulations of States for vessels flying their flag shall be adequate in severity to discourage violations wherever they occur.

Article 218
Enforcement by port States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside

the internal waters, territorial sea or exclusive economic zone of that State in violation of applicable international rules and standards established through the competent international organization or general diplomatic conference.

2. No proceedings pursuant to paragraph 1 shall be instituted in respect of a discharge violation in the internal waters, territorial sea or exclusive economic zone of another State unless requested by that State, the flag State, or a State damaged or threatened by the discharge violation, or unless the violation has caused or is likely to cause pollution in the internal waters, territorial sea or exclusive economic zone of the State instituting the proceedings.

3. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State shall, as far as practicable, comply with requests from any State for investigation of a discharge violation referred to in paragraph 1, believed to have occurred in, caused, or threatened damage to the internal waters, territorial sea or exclusive economic zone of the requesting State. It shall likewise, as far as practicable, comply with requests from the flag State for investigation of such a violation, irrespective of where the violation occurred.

4. The records of the investigation carried out by a port State pursuant to this article shall be transmitted upon request to the flag State or to the coastal State. Any proceedings instituted by the port State on the basis of such an investigation may, subject to section 7, be suspended at the request of the coastal State when the violation has occurred within its internal waters, territorial sea or exclusive economic zone. The evidence and records of the case, together with any bond or other financial security posted with the authorities of the port State, shall in that event be transmitted to the coastal State. Such transmittal shall preclude the continuation of proceedings in the port State.

Article 219
Measures relating to seaworthiness of vessels to avoid pollution

Subject to section 7, States which, upon request or on their own initiative, have ascertained that a vessel within one of their ports or at one of their off-shore terminals is in violation of applicable international rules and standards relating to seaworthiness of vessels and thereby threatens damage to the marine environment shall, as far as practicable, take administrative measures to prevent the vessel from sailing. Such States may permit the vessel to proceed only to the nearest appropriate repair yard and, upon removal of the causes of the violation, shall permit the vessel to continue immediately.

Article 220
Enforcement by coastal States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may, subject to section 7, institute proceedings in respect of any violation of its laws and regulations adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels when the violation has occurred within the territorial sea or the exclusive economic zone of that State.

2. Where there are clear grounds for believing that a vessel navigating in the territorial sea of a State has, during its passage therein, violated laws and regulations of that State adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels, that State, without prejudice to the application of the rele-

vant provisions of Part II, section 3, may undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws, subject to the provisions of section 7.

3. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels or laws and regulations of that State conforming and giving effect to such rules and standards, that State may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

4. States shall adopt laws and regulations and take other measures so that vessels flying their flag comply with requests for information pursuant to paragraph 3.

5. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a substantial discharge causing or threatening significant pollution of the marine environment, that State may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the evident factual situation and if the circumstances of the case justify such inspection.

6. Where there is clear objective evidence that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the coastal State, or to any resources of its territorial sea or exclusive economic zone, that State may, subject to section 7, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws.

7. Notwithstanding the provisions of paragraph 6, whenever appropriate procedures have been established, either through the competent international organization or as otherwise agreed, whereby compliance with requirements for bonding or other appropriate financial security has been assured, the coastal State if bound by such procedures shall allow the vessel to proceed.

8. The provisions of paragraphs 3, 4, 5, 6 and 7 also apply in respect of national laws and regulations adopted pursuant to article 211, paragraph 6.

Article 221
Measures to avoid pollution arising from maritime casualties

1. Nothing in this Part shall prejudice the right of States, pursuant to international law, both customary and conventional, to take and enforce measures beyond the territorial sea proportionate to the actual or threatened damage to protect their coastline or related interests, including fishing, from pollution or threat of pollution following upon a maritime casualty or acts relating to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. For the purposes of this article, "maritime casualty" means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo.

Article 222
Enforcement with respect to pollution from or through the atmosphere

States shall enforce, within the air space under their sovereignty or with regard to vessels flying their flag or vessels or aircraft of their registry, their laws and regulations adopted in accordance with article 212, paragraph 1, and with other provisions of this Convention and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from or through the atmosphere, in conformity with all relevant international rules and standards concerning the safety of air navigation.

SECTION 7. SAFEGUARDS

Article 223
Measures to facilitate proceedings

In proceedings instituted pursuant to this Part, States shall take measures to facilitate the hearing of witnesses and the admission of evidence submitted by authorities of another State, or by the competent international organization, and shall facilitate the attendance at such proceedings of official representatives of the competent international organization, the flag State and any State affected by pollution arising out of any violation. The official representatives attending such proceedings shall have such rights and duties as may be provided under national laws and regulations or international law.

Article 224
Exercise of powers of enforcement

The powers of enforcement against foreign vessels under this Part may only be exercised by officials or by warships, military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 225
Duty to avoid adverse consequences in the exercise of the powers of enforcement

In the exercise under this Convention of their powers of enforcement against foreign vessels, States shall not endanger the safety of navigation or otherwise create any hazard to a vessel, or bring it to an unsafe port or anchorage, or expose the marine environment to an unreasonable risk.

Article 226
Investigation of foreign vessels

1. (a) States shall not delay a foreign vessel longer than is essential for purposes of the investigations provided for in articles 216, 218 and 220. Any physical inspection of a foreign vessel shall be limited to an examination of such certificates, records or other documents as the vessel is required to carry by generally accepted international rules and standards or of any similar documents which it is carrying; further physical inspection of the vessel may be undertaken only after such an examination and only when:

(i) there are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of those documents;

(ii) the contents of such documents are not sufficient to confirm or verify a suspected violation; or

(iii) the vessel is not carrying valid certificates and records.

(b) If the investigation indicates a violation of applicable laws and regulations or international rules and standards for the protection and preservation of the marine environment, release shall be made promptly subject to reasonable procedures such as bonding or other appropriate financial security.

(c) Without prejudice to applicable international rules and standards relating to the seaworthiness of vessels, the release of a vessel may, whenever it would present an unreasonable threat of damage to the marine environment, be refused or made conditional upon proceeding to the nearest appropriate repair yard. Where release has been refused or made conditional, the flag State of the vessel must be promptly notified, and may seek release of the vessel in accordance with Part XV.

2. States shall co-operate to develop procedures for the avoidance of unnecessary physical inspection of vessels at sea.

Article 227
Non-discrimination with respect to foreign vessels

In exercising their rights and performing their duties under this Part, States shall not discriminate in form or in fact against vessels of any other State.

Article 228
Suspension and restrictions on institution of proceedings

1. Proceedings to impose penalties in respect of any violation of applicable laws and regulations or international rules and standards relating to the prevention, reduction and control of pollution from vessels committed by a foreign vessel beyond the territorial sea of the State instituting proceedings shall be suspended upon the taking of proceedings to impose penalties in respect of corresponding charges by the flag State within six months of the date on which proceedings were first instituted, unless those proceedings relate to a case of major damage to the coastal State or the flag State in question has repeatedly disregarded its obligation to enforce effectively the applicable international rules and standards in respect of violations committed by its vessels. The flag State shall in due course make available to the State previously instituting proceedings a full dossier of the case and the records of the proceedings, whenever the flag State has requested the suspension of proceedings in accordance with this article. When proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated. Upon payment of costs incurred in respect of such proceedings, any bond posted or other financial security provided in connection with the suspended proceedings shall be released by the coastal State.

2. Proceedings to impose penalties on foreign vessels shall not be instituted after the expiry of three years from the date on which the violation was committed, and shall not be taken by any State in the event of proceedings having been instituted by another State subject to the provisions set out in paragraph 1.

3. The provisions of this article are without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws irrespective of prior proceedings by another State.

Article 229
Institution of civil proceedings

Nothing in this Convention affects the institution of civil proceedings in respect of any claim for loss or damage resulting from pollution of the marine environment.

Article 230
Monetary penalties and the observance of recognized rights of the accused

1. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels beyond the territorial sea.

2. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels in the territorial sea, except in the case of a wilful and serious act of pollution in the territorial sea.

3. In the conduct of proceedings in respect of such violations committed by a foreign vessel which may result in the imposition of penalties, recognized rights of the accused shall be observed.

Article 231
Notification to the flag State and other States concerned

States shall promptly notify the flag State and any other State concerned of any measures taken pursuant to section 6 against foreign vessels, and shall submit to the flag State all official reports concerning such measures. However, with respect to violations committed in the territorial sea, the foregoing obligations of the coastal State apply only to such measures as are taken in proceedings. The diplomatic agents or consular officers and where possible the maritime authority of the flag State, shall be immediately informed of any such measures taken pursuant to section 6 against foreign vessels.

Article 232
Liability of States arising from enforcement measures

States shall be liable for damage or loss attributable to them arising from measures taken pursuant to section 6 when such measures are unlawful or exceed those reasonably required in the light of available information. States shall provide for recourse in their courts for actions in respect of such damage or loss.

Article 233
Safeguards with respect to straits used for international navigation

Nothing in sections 5, 6 and 7 affects the legal régime of straits used for international navigation. However, if a foreign ship other than those referred to in section 10 has committed a violation of the laws and regulations referred to in article 42, paragraph 1(a) and (b), causing or threatening major damage to the marine environment of the straits, the States bordering the straits may take appropriate enforcement measures and if so shall respect *mutatis mutandis* the provisions of this section.

SECTION 8. ICE-COVERED AREAS

Article 234
Ice-covered areas

Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.

SECTION 9. RESPONSIBILITY AND LIABILITY

Article 235
Responsibility and liability

1. States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment. They shall be liable in accordance with international law.

2. States shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief in respect of damage caused by pollution of the marine environment by natural or juridical persons under their jurisdiction.

3. With the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall co-operate in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation, such as compulsory insurance or compensation funds.

SECTION 10. SOVEREIGN IMMUNITY

Article 236
Sovereign immunity

The provisions of this Convention regarding the protection and preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service. However, each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

SECTION 11. OBLIGATIONS UNDER OTHER CONVENTIONS ON THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Article 237
Obligations under other conventions on the protection and preservation of the marine environment

1. The provisions of this Part are without prejudice to the specific obligations assumed by States under special conventions and agreements concluded previously which relate to the protection and preservation of the marine environment and to agreements which may be concluded in furtherance of the general principles set forth in this Convention.

2. Specific obligations assumed by States under special conventions, with respect to the protection and preservation of the marine environment, should be carried out in a manner consistent with the general principles and objectives of this Convention.

PART XIII

MARINE SCIENTIFIC RESEARCH

SECTION 1. GENERAL PROVISIONS

Article 238
Right to conduct marine scientific research

All States, irrespective of their geographical location, and competent international organizations have the right to conduct marine scientific research subject to the rights and duties of other States as provided for in this Convention.

Article 239
Promotion of marine scientific research

States and competent international organizations shall promote and facilitate the development and conduct of marine scientific research in accordance with this Convention.

Article 240
General principles for the conduct of marine scientific research

In the conduct of marine scientific research the following principles shall apply:

(a) marine scientific research shall be conducted exclusively for peaceful purposes;

(b) marine scientific research shall be conducted with appropriate scientific methods and means compatible with this Convention;

(c) marine scientific research shall not unjustifiably interfere with other legitimate uses of the sea compatible with this Convention and shall be duly respected in the course of such uses;

(d) marine scientific research shall be conducted in compliance with all relevant regulations adopted in conformity with this Convention including those for the protection and preservation of the marine environment.

Article 241
Non-recognition of marine scientific research activities as the legal basis for claims

Marine scientific research activities shall not constitute the legal basis for any claim to any part of the marine environment or its resources.

SECTION 2. INTERNATIONAL CO-OPERATION

Article 242
Promotion of international co-operation

1. States and competent international organizations shall, in accordance with the principle of respect for sovereignty and jurisdiction and on the basis of mutual benefit, promote international co-operation in marine scientific research for peaceful purposes.

2. In this context, without prejudice to the rights and duties of States under this Convention, a State, in the application of this Part, shall provide, as appropriate, other States with a reasonable opportunity to obtain from it, or with its co-operation, information necessary to prevent and control damage to the health and safety of persons and to the marine environment.

Article 243
Creation of favourable conditions

States and competent international organizations shall co-operate, through the conclusion of bilateral and multilateral agreements, to create favourable 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.

Article 244
Publication and dissemination of information and knowledge

1. States and competent international organizations shall, in accordance with this Convention, make available by publication and dissemination through appropriate channels information on proposed major programmes and their objectives as well as knowledge resulting from marine scientific research.

2. For this purpose, States, both individually and in co-operation with other States and with competent international organizations, shall actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research, especially to developing States, as well as the strengthening of the autonomous marine scientific research capabilities of developing States through, *inter alia*, programmes to provide adequate education and training of their technical and scientific personnel.

SECTION 3. CONDUCT AND PROMOTION OF MARINE SCIENTIFIC RESEARCH

Article 245
Marine scientific research in the territorial sea

Coastal States, in the exercise of their sovereignty, have the exclusive right to regulate, authorize and conduct marine scientific research in their territorial sea. Marine scientific research therein shall be conducted only with the express consent of and under the conditions set forth by the coastal State.

Article 246
Marine scientific research in the exclusive economic zone and on the continental shelf

1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their exclusive economic zone and on their continental shelf in accordance with the relevant provisions of this Convention.

2. Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State.

3. Coastal States shall, in normal circumstances, grant their consent for marine scientific research projects by other States or competent international organizations in their exclusive economic zone or on their continental shelf to be carried out in accordance with this Convention exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind. To this end, coastal States shall establish rules and procedures ensuring that such consent will not be delayed or denied unreasonably.

4. For the purposes of applying paragraph 3, normal circumstances may exist in spite of the absence of diplomatic relations between the coastal State and the researching State.

5. Coastal States may however in their discretion withhold their consent to the conduct of a marine scientific research project of another State or competent international organization in the exclusive economic zone or on the continental shelf of the coastal State if that project:

(a) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;

(b) involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment;

(c) involves the construction, operation or use of artificial islands, installations and structures referred to in articles 60 and 80;

(d) contains information communicated pursuant to article 248 regarding the nature and objectives of the project which is inaccurate or if the researching State or competent international organization has outstanding obligations to the coastal State from a prior research project.

6. Notwithstanding the provisions of paragraph 5, coastal States may not exercise their discretion to withhold consent under subparagraph (a) of that paragraph in respect of marine scientific research projects to be undertaken in accordance with the provisions of this Part on the continental shelf, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, outside those specific areas which coastal States may at any time pub-

licly designate as areas in which exploitation or detailed exploratory operations focused on those areas are occurring or will occur within a reasonable period of time. Coastal States shall give reasonable notice of the designation of such areas, as well as any modifications thereto, but shall not be obliged to give details of the operations therein.

7. The provisions of paragraph 6 are without prejudice to the rights of coastal States over the continental shelf as established in article 77.

8. Marine scientific research activities referred to in this article shall not unjustifiably interfere with activities undertaken by coastal States in the exercise of their sovereign rights and jurisdiction provided for in this Convention.

Article 247
Marine scientific research projects undertaken by or under the auspices of international organizations

A coastal State which is a member of or has a bilateral agreement with an international organization, and in whose exclusive economic zone or on whose continental shelf that organization wants to carry out a marine scientific research project, directly or under its auspices, shall be deemed to have authorized the project to be carried out in conformity with the agreed specifications if that State approved the detailed project when the decision was made by the organization for the undertaking of the project, or is willing to participate in it, and has not expressed any objection within four months of notification of the project by the organization to the coastal State.

Article 248
Duty to provide information to the coastal State

States and competent international organizations which intend to undertake marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall, not less than six months in advance of the expected starting date of the marine scientific research project, provide that State with a full description of:

(a) the nature and objectives of the project;
(b) the method and means to be used, including name, tonnage, type and class of vessels and a description of scientific equipment;
(c) the precise geographical areas in which the project is to be conducted;
(d) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;
(e) the name of the sponsoring institution, its director, and the person in charge of the project; and
(f) the extent to which it is considered that the coastal State should be able to participate or to be represented in the project.

Article 249
Duty to comply with certain conditions

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;

(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.

Article 250
Communications concerning marine scientific research projects

Communications concerning the marine scientific research projects shall be made through appropriate official channels, unless otherwise agreed.

Article 251
General criteria and guidelines

States shall seek to promote through competent international organizations the establishment of general criteria and guidelines to assist States in ascertaining the nature and implications of marine scientific research.

Article 252
Implied consent

States or competent international organizations may proceed with a marine scientific research project six months after the date upon which the information required pursuant to article 248 was provided to the coastal State unless within four months of the receipt of the communication containing such information the coastal State has informed the State or organization conducting the research that:

(a) it has withheld its consent under the provisions of article 246; or

(b) the information given by that State or competent international organization regarding the nature or objectives of the project does not conform to the manifestly evident facts; or

(c) it requires supplementary information relevant to conditions and the information provided for under articles 248 and 249; or

(d) outstanding obligations exist with respect to a previous marine scientific research project carried out by that State or organization, with regard to conditions established in article 249.

Article 253
Suspension or cessation of marine scientific research activities

1. A coastal State shall have the right to require the suspension of any marine scientific research activities in progress within its exclusive economic zone or on its continental shelf if:

(a) the research activities are not being conducted in accordance with the information communicated as provided under article 248 upon which the consent of the coastal State was based; or

(b) the State or competent international organization conducting the research activities fails to comply with the provisions of article 249 concerning the rights of the coastal State with respect to the marine scientific research project.

2. A coastal State shall have the right to require the cessation of any marine scientific research activities in case of any non-compliance with the provisions of article 248 which amounts to a major change in the research project or the research activities.

3. A coastal State may also require cessation of marine scientific research activities if any of the situations contemplated in paragraph 1 are not rectified within a reasonable period of time.

4. Following notification by the coastal State of its decision to order suspension or cessation, States or competent international organizations authorized to conduct marine scientific research activities shall terminate the research activities that are the subject of such a notification.

5. An order of suspension under paragraph 1 shall be lifted by the coastal State and the marine scientific research activities allowed to continue once the researching State or competent international organization has complied with the conditions required under articles 248 and 249.

Article 254
Rights of neighbouring land-locked and geographically disadvantaged States

1. States and competent international organizations which have submitted to a coastal State a project to undertake marine scientific research referred to in article 246, paragraph 3, shall give notice to the neighbouring land-locked and geographically disadvantaged States of the proposed research project, and shall notify the coastal State thereof.

2. After the consent has been given for the proposed marine scientific research project by the coastal State concerned, in accordance with article 246 and other relevant provisions of this Convention, States and competent international organizations undertaking such a project shall provide to the neighbouring land-locked and geographically disadvantaged States, at their request and when appropriate, relevant information as specified in article 248 and article 249, paragraph 1(f).

3. The neighbouring land-locked and geographically disadvantaged States referred to above shall, at their request, be given the opportunity to participate, whenever feasible, in the proposed marine scientific research project through qualified experts appointed by them and not objected to by the coastal State, in

accordance with the conditions agreed for the project, in conformity with the provisions of this Convention, between the coastal State concerned and the State or competent international organizations conducting the marine scientific research.

4. States and competent international organizations referred to in paragraph 1 shall provide to the above-mentioned land-locked and geographically disadvantaged States, at their request, the information and assistance specified in article 249, paragraph 1 (d), subject to the provisions of article 249, paragraph 2.

Article 255
Measures to facilitate marine scientific research and assist research vessels

States shall endeavour to adopt reasonable rules, regulations and procedures to promote and facilitate marine scientific research conducted in accordance with this Convention beyond their territorial sea and, as appropriate, to facilitate, subject to the provisions of their laws and regulations, access to their harbours and promote assistance for marine scientific research vessels which comply with the relevant provisions of this Part.

Article 256
Marine scientific research in the Area

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with the provisions of Part XI, to conduct marine scientific research in the Area.

Article 257
Marine scientific research in the water column beyond the exclusive economic zone

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with this Convention, to conduct marine scientific research in the water column beyond the limits of the exclusive economic zone.

SECTION 4. SCIENTIFIC RESEARCH INSTALLATIONS OR EQUIPMENT IN THE MARINE ENVIRONMENT

Article 258
Deployment and use

The deployment and use of any type of scientific research installations or equipment in any area of the marine environment shall be subject to the same conditions as are prescribed in this Convention for the conduct of marine scientific research in any such area.

Article 259
Legal status

The installations or equipment referred to in this section do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 260
Safety zones

Safety zones of a reasonable breadth not exceeding a distance of 500 metres may be created around scientific research installations in accordance with the relevant provisions of this Convention. All States shall ensure that such safety zones are respected by their vessels.

Article 261
Non-interference with shipping routes

The deployment and use of any type of scientific research installations or equipment shall not constitute an obstacle to established international shipping routes.

Article 262
Identification markings and warning signals

Installations or equipment referred to in this section shall bear identification markings indicating the State of registry or the international organization to which they belong and shall have adequate internationally agreed warning signals to ensure safety at sea and the safety of air navigation, taking into account rules and standards established by competent international organizations.

SECTION 5. RESPONSIBILITY AND LIABILITY

Article 263
Responsibility and liability

1. States and competent international organizations shall be responsible for ensuring that marine scientific research, whether undertaken by them or on their behalf, is conducted in accordance with this Convention.

2. States and competent international organizations shall be responsible and liable for the measures they take in contravention of this Convention in respect of marine scientific research conducted by other States, their natural or juridical persons or by competent international organizations, and shall provide compensation for damage resulting from such measures.

3. States and competent international organizations shall be responsible and liable pursuant to article 235 for damage caused by pollution of the marine environment arising out of marine scientific research undertaken by them or on their behalf.

SECTION 6. SETTLEMENT OF DISPUTES AND INTERIM MEASURES

Article 264
Settlement of disputes

Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with Part XV, sections 2 and 3.

Article 265
Interim measures

Pending settlement of a dispute in accordance with Part XV, sections 2 and 3, the State or competent international organization authorized to conduct a marine scientific research project shall not allow research activities to commence or continue without the express consent of the coastal State concerned.

PART XIV

DEVELOPMENT AND TRANSFER OF MARINE TECHNOLOGY

SECTION 1. GENERAL PROVISIONS

Article 266
Promotion of the development and transfer of marine technology

1. States, directly or through competent international organizations, shall co-operate in accordance with their capabilities to promote actively the development and transfer of marine science and marine technology on fair and reasonable terms and conditions.

2. States shall promote the development of the marine scientific and technological capacity of States which may need and request technical assistance in this field, particularly developing States, including land-locked and geographically disadvantaged States, with regard to the exploration, exploitation, conservation and management of marine resources, the protection and preservation of the marine environment, marine scientific research and other activities in the marine environment compatible with this Convention, with a view to accelerating the social and economic development of the developing States.

3. States shall endeavour to foster favourable economic and legal conditions for the transfer of marine technology for the benefit of all parties concerned on an equitable basis.

Article 267
Protection of legitimate interests

States, in promoting co-operation pursuant to article 266, shall have due regard for all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of marine technology.

Article 268
Basic objectives

States, directly or through competent international organizations, shall promote:

(a) the acquisition, evaluation and dissemination of marine technological knowledge and facilitate access to such information and data;

(b) the development of appropriate marine technology;

(c) the development of the necessary technological infrastructure to facilitate the transfer of marine technology;

(d) the development of human resources through training and education of nationals of developing States and countries and especially the nationals of the least developed among them;

(e) international co-operation at all levels, particularly at the regional, sub-regional and bilateral levels.

Article 269
Measures to achieve the basic objectives

In order to achieve the objectives referred to in article 268, States, directly or through competent international organizations, shall endeavour, *inter alia*, to:

(a) establish programmes of technical co-operation for the effective transfer of all kinds of marine technology to States which may need and request technical assistance in this field, particularly the developing land-locked and geographically disadvantaged States, as well as other developing States which have not been able either to establish or develop their own technological capacity in marine science and in the exploration and exploitation of marine resources or to develop the infrastructure of such technology;

(b) promote favourable conditions for the conclusion of agreements, contracts and other similar arrangements, under equitable and reasonable conditions;

(c) hold conferences, seminars and symposia on scientific and technological subjects, in particular on policies and methods for the transfer of marine technology;

(d) promote the exchange of scientists and of technological and other experts;

(e) undertake projects and promote joint ventures and other forms of bilateral and multilateral co-operation.

SECTION 2. INTERNATIONAL CO-OPERATION

Article 270
Ways and means of international co-operation

International co-operation for the development and transfer of marine technology shall be carried out, where feasible and appropriate, through existing bilateral, regional or multilateral programmes, and also through expanded and new programmes in order to facilitate marine scientific research, the transfer of marine technology, particularly in new fields, and appropriate international funding for ocean research and development.

Article 271
Guidelines, criteria and standards

States, directly or through competent international organizations, shall promote the establishment of generally accepted guidelines, criteria and standards for the transfer of marine technology on a bilateral basis or within the framework of international organizations and other fora, taking into account, in particular, the interests and needs of developing States.

Article 272
Co-ordination of international programmes

In the field of transfer of marine technology, States shall endeavour to ensure that competent international organizations co-ordinate their activities, including

any regional or global programmes, taking into account the interests and needs of developing States, particularly land-locked and geographically disadvantaged States.

Article 273
Co-operation with international organizations and the Authority

States shall co-operate actively with competent international organizations and the Authority to encourage and facilitate the transfer to developing States, their nationals and the Enterprise of skills and marine technology with regard to activities in the Area.

Article 274
Objectives of the Authority

Subject to all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of technology, the Authority, with regard to activities in the Area, shall ensure that:

(a) on the basis of the principle of equitable geographical distribution, nationals of developing States, whether coastal, land-locked or geographically disadvantaged, shall be taken on for the purposes of training as members of the managerial, research and technical staff constituted for its undertakings;

(b) the technical documentation on the relevant equipment, machinery, devices and processes is made available to all States, in particular developing States which may need and request technical assistance in this field;

(c) adequate provision is made by the Authority to facilitate the acquisition of technical assistance in the field of marine technology by States which may need and request it, in particular developing States, and the acquisition by their nationals of the necessary skills and know-how, including professional training;

(d) States which may need and request technical assistance in this field, in particular developing States, are assisted in the acquisition of necessary equipment, processes, plant and other technical know-how through any financial arrangements provided for in this Convention.

SECTION 3. NATIONAL AND REGIONAL MARINE SCIENTIFIC AND TECHNOLOGICAL CENTRES

Article 275
Establishment of national centres

1. States, directly or through competent international organizations and the Authority, shall promote the establishment, particularly in developing coastal States, of national marine scientific and technological research centres and the strengthening of existing national centres, in order to stimulate and advance the conduct of marine scientific research by developing coastal States and to enhance their national capabilities to utilize and preserve their marine resources for their economic benefit.

2. States, through competent international organizations and the Authority, shall give adequate support to facilitate the establishment and strengthening of

such national centres so as to provide for advanced training facilities and necessary equipment, skills and know-how as well as technical experts to such States which may need and request such assistance.

Article 276
Establishment of regional centres

1. States, in co-ordination with the competent international organizations, the Authority and national marine scientific and technological research institutions, shall promote the establishment of regional marine scientific and technological research centres, particularly in developing States, in order to stimulate and advance the conduct of marine scientific research by developing States and foster the transfer of marine technology.

2. All States of a region shall co-operate with the regional centres therein to ensure the more effective achievement of their objectives.

Article 277
Functions of regional centres

The functions of such regional centres shall include, *inter alia*:

(a) training and educational programmes at all levels on various aspects of marine scientific and technological research, particularly marine biology, including conservation and management of living resources, oceanography, hydrography, engineering, geological exploration of the sea-bed, mining and desalination technologies;
(b) management studies;
(c) study programmes related to the protection and preservation of the marine environment and the prevention, reduction and control of pollution;
(d) organization of regional conferences, seminars and symposia;
(e) acquisition and processing of marine scientific and technological data and information;
(f) prompt dissemination of results of marine scientific and technological research in readily available publications;
(g) publicizing national policies with regard to the transfer of marine technology and systematic comparative study of those policies;
(h) compilation and systematization of information on the marketing of technology and on contracts and other arrangements concerning patents;
(i) technical co-operation with other States of the region.

SECTION 4. CO-OPERATION AMONG INTERNATIONAL ORGANIZATIONS

Article 278
Co-operation among international organizations

The competent international organizations referred to in this Part and in Part XIII shall take all appropriate measures to ensure, either directly or in close co-operation among themselves, the effective discharge of their functions and responsibilities under this Part.

PART XV

SETTLEMENT OF DISPUTES

SECTION 1. GENERAL PROVISIONS

Article 279
Obligation to settle disputes by peaceful means

States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter.

Article 280
Settlement of disputes by any peaceful means chosen by the parties

Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice.

Article 281
Procedure where no settlement has been reached by the parties

1. If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure.

2. If the parties have also agreed on a time-limit, paragraph 1 applies only upon the expiration of that time-limit.

Article 282
Obligations under general, regional or bilateral agreements

If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed, through a general, regional or bilateral agreement or otherwise, that such dispute shall, at the request of any party to the dispute, be submitted to a procedure that entails a binding decision, that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute otherwise agree.

Article 283
Obligation to exchange views

1. When a dispute arises between States Parties concerning the interpretation or application of this Convention, the parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means.

2. The parties shall also proceed expeditiously to an exchange of views where a procedure for the settlement of such a dispute has been terminated without a settlement or where a settlement has been reached and the circumstances require consultation regarding the manner of implementing the settlement.

Article 284
Conciliation

1. A State Party which is a party to a dispute concerning the interpretation or application of this Convention may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure under Annex V, section 1, or another conciliation procedure.

2. If the invitation is accepted and if the parties agree upon the conciliation procedure to be applied, any party may submit the dispute to that procedure.

3. If the invitation is not accepted or the parties do not agree upon the procedure, the conciliation proceedings shall be deemed to be terminated.

4. Unless the parties otherwise agree, when a dispute has been submitted to conciliation, the proceedings may be terminated only in accordance with the agreed conciliation procedure.

Article 285
Application of this section to disputes submitted pursuant to Part XI

This section applies to any dispute which pursuant to Part XI, section 5, is to be settled in accordance with procedures provided for in this Part. If an entity other than a State Party is a party to such a dispute, this section applies *mutatis mutandis*.

SECTION 2. COMPULSORY PROCEDURES ENTAILING BINDING DECISIONS

Article 286
Application of procedures under this section

Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

Article 287
Choice of procedure

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

(a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;

(b) the International Court of Justice;

(c) an arbitral tribunal constituted in accordance with Annex VII;

(d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

2. A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

4. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance wih Annex VII, unless the parties otherwise agree.

6. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

7. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this article, unless the parties otherwise agree.

8. Declarations and notices referred to in this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 288
Jurisdiction

1. A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.

2. A court or tribunal referred to in article 287 shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement.

3. The Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea established in accordance with Annex VI, and any other chamber or arbitral tribunal referred to in Part XI, section 5, shall have jurisdiction in any matter which is submitted to it in accordance therewith.

4. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.

Article 289
Experts

In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this section may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII, article 2, to sit with the court or tribunal but without the right to vote.

Article 290
Provisional measures

1. If a dispute has been duly submitted to a court or tribunal which considers that *prima facie* it has jurisdiction under this Part or Part XI, section 5, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision.

2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.

3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

4. The court or tribunal shall forthwith give notice to the parties to the dispute, and to such other States Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.

5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under this section, any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Tribunal for the Law of the Sea or, with respect to activities in the Area, the Sea-Bed Disputes Chamber, may prescribe, modify or revoke provisional measures in accordance with this article if it considers that *prima facie* the tribunal which is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.

6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

Article 291
Access

1. All the dispute settlement procedures specified in this Part shall be open to States Parties.

2. The dispute settlement procedures specified in this Part shall be open to entities other than States Parties only as specifically provided for in this Convention.

Article 292
Prompt release of vessels and crews

1. Where the authorities of a State Party have detained a vessel flying the flag of another State Party and it is alleged that the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security, the question of release from detention may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement within 10 days from the time of detention, to a court or tribunal accepted by the detaining State under article 287 or to the International Tribunal for the Law of the Sea, unless the parties otherwise agree.

2. The application for release may be made only by or on behalf of the flag State of the vessel.

3. The court or tribunal shall deal without delay with the application for release and shall deal only with the question of release, without prejudice to the merits of any case before the appropriate domestic forum against the vessel, its owner or its crew. The authorities of the detaining State remain competent to release the vessel or its crew at any time.

4. Upon the posting of the bond or other financial security determined by the court or tribunal, the authorities of the detaining State shall comply promptly with the decision of the court or tribunal concerning the release of the vessel or its crew.

Article 293
Applicable law

1. A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention.

2. Paragraph 1 does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case *ex aequo et bono*, if the parties so agree.

Article 294
Preliminary proceedings

1. A court or tribunal provided for in article 287 to which an application is made in respect of a dispute referred to in article 297 shall determine at the request of a party, or may determine *proprio motu*, whether the claim constitutes an abuse of legal process or whether *prima facie* it is well founded. If the court or tribunal determines that the claim constitutes an abuse of legal process or is *prima facie* unfounded, it shall take no further action in the case.

2. Upon receipt of the application, the court or tribunal shall immediately notify the other party or parties of the application, and shall fix a reasonable time-limit within which they may request it to make a determination in accordance with paragraph 1.

3. Nothing in this article affects the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure.

Article 295
Exhaustion of local remedies

Any dispute between States Parties concerning the interpretation or application of this Convention may be submitted to the procedures provided for in this section only after local remedies have been exhausted where this is required by international law.

Article 296
Finality and binding force of decisions

1. Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute.

2. Any such decision shall have no binding force except between the parties and in respect of that particular dispute.

SECTION 3. LIMITATIONS AND EXCEPTIONS TO APPLICABILITY OF SECTION 2

Article 297
Limitations on applicability of section 2

1. Disputes concerning the interpretation or application of this Convention with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in this Convention shall be subject to the procedures provided for in section 2 in the following cases:

(a) when it is alleged that a coastal State has acted in contravention of the provisions of this Convention in regard to the freedoms and rights of

navigation, overflight or the laying of submarine cables and pipelines, or in regard to other internationally lawful uses of the sea specified in article 58;

(b) when it is alleged that a State in exercising the aforementioned freedoms, rights or uses has acted in contravention of this Convention or of laws or regulations adopted by the coastal State in conformity with this Convention and other rules of international law not incompatible with this Convention; or

(c) when it is alleged that a coastal State has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to the coastal State and which have been established by this Convention or through a competent international organization or diplomatic conference in accordance with this Convention.

2. (a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute arising out of:

(i) the exercise by the coastal State of a right or discretion in accordance with article 246; or

(ii) a decision by the coastal State to order suspension or cessation of a research project in accordance with article 253.

(b) A dispute arising from an allegation by the researching State that with respect to a specific project the coastal State is not exercising its rights under articles 246 and 253 in a manner compatible with this Convention shall be submitted, at the request of either party, to conciliation under Annex V, section 2, provided that the conciliation commission shall not call in question the exercise by the coastal State of its discretion to designate specific areas as referred to in article 246, paragraph 6, or of its discretion to withhold consent in accordance with article 246, paragraph 5.

3. (a) Disputes concerning the interpretation or application of the provisions of this Convention with regard to fisheries shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute relating to its sovereign rights with respect to the living resources in the exclusive economic zone or their exercise, including its discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management laws and regulations.

(b) Where no settlement has been reached by recourse to section 1 of this Part, a dispute shall be submitted to conciliation under Annex V, section 2, at the request of any party to the dispute, when it is alleged that:

(i) a coastal State has manifestly failed to comply with its obligations to ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not seriously endangered;

(ii) a coastal State has arbitrarily refused to determine, at the request of another State, the allowable catch and its capacity to harvest living resources with respect to stocks which that other State is interested in fishing; or

(iii) a coastal State has arbitrarily refused to allocate to any State, under articles 62, 69 and 70 and under the terms and conditions established

by the coastal State consistent with this Convention, the whole or part of the surplus it has declared to exist.

(c) In no case shall the conciliation commission substitute its discretion for that of the coastal State.

(d) The report of the conciliation commission shall be communicated to the appropriate international organizations.

(e) In negotiating agreements pursuant to articles 69 and 70, States Parties, unless they otherwise agree, shall include a clause on measures which they shall take in order to minimize the possibility of a disagreement concerning the interpretation or application of the agreement, and on how they should proceed if a disagreement nevertheless arises.

Article 298
Optional exceptions to applicability of section 2

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes:

(a) (i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission;

(ii) after the conciliation commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2, unless the parties otherwise agree;

(iii) this subparagraph does not apply to any sea boundary dispute finally settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding upon those parties;

(b) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3;

(c) disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention.

2. A State Party which has made a declaration under paragraph 1 may at any time withdraw it, or agree to submit a dispute excluded by such declaration to any procedure specified in this Convention.

3. A State Party which has made a declaration under paragraph 1 shall not be entitled to submit any dispute falling within the excepted category of disputes to any procedure in this Convention as against another State Party, without the consent of that party.

4. If one of the States Parties has made a declaration under paragraph 1(a), any other State Party may submit any dispute falling within an excepted category against the declarant party to the procedure specified in such declaration.

5. A new declaration, or the withdrawal of a declaration, does not in any way affect proceedings pending before a court or tribunal in accordance with this article, unless the parties otherwise agree.

6. Declarations and notices of withdrawal of declarations under this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 299
Right of the parties to agree upon a procedure

1. A dispute excluded under article 297 or excepted by a declaration made under article 298 from the dispute settlement procedures provided for in section 2 may be submitted to such procedures only by agreement of the parties to the dispute.

2. Nothing in this section impairs the right of the parties to the dispute to agree to some other procedure for the settlement of such dispute or to reach an amicable settlement.

PART XVI

GENERAL PROVISIONS

Article 300
Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right.

Article 301
Peaceful uses of the seas

In exercising their rights and performing their duties under this Convention, States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations.

Article 302
Disclosure of information

Without prejudice to the right of a State Party to resort to the procedures for the settlement of disputes provided for in this Convention, nothing in this Convention shall be deemed to require a State Party, in the fulfilment of its obligations under this Convention, to supply information the disclosure of which is contrary to the essential interests of its security.

Article 303
Archaeological and historical objects found at sea

1. States have the duty to protect objects of an archaeological and historical nature found at sea and shall co-operate for this purpose.

2. In order to control traffic in such objects, the coastal State may, in applying article 33, presume that their removal from the sea-bed in the zone referred to in that article without its approval would result in an infringement within its territory or territorial sea of the laws and regulations referred to in that article.

3. Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.

4. This article is without prejudice to other international agreements and rules of international law regarding the protection of objects of an archaeological and historical nature.

Article 304
Responsibility and liability for damage

The provisions of this Convention regarding responsibility and liability for damage are without prejudice to the application of existing rules and the development of further rules regarding responsibility and liability under international law.

PART XVII

FINAL PROVISIONS

Article 305
Signature

1. This Convention shall be open for signature by:
(a) all States;
(b) Namibia, represented by the United Nations Council for Namibia;
(c) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
(d) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
(e) all territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
(f) international organizations, in accordance with Annex IX.

2. This Convention shall remain open for signature until 9 December 1984 at the Ministry of Foreign Affairs of Jamaica and also, from 1 July 1983 until 9 December 1984, at United Nations Headquarters in New York.

Article 306
Ratification and formal confirmation

This Convention is subject to ratification by States and the other entities referred to in article 305, paragraph 1(b), (c), (d) and (e), and to formal confirmation, in accordance with Annex IX, by the entities referred to in article 305, paragraph 1(f). The instruments of ratification and of formal confirmation shall be deposited with the Secretary-General of the United Nations.

Article 307
Accession

This Convention shall remain open for accession by States and the other entities referred to in article 305. Accession by the entities referred to in article 305, paragraph 1(f), shall be in accordance with Annex IX. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 308
Entry into force

1. This Convention shall enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the sixtieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession, subject to paragraph 1.

3. The Assembly of the Authority shall meet on the date of entry into force of this Convention and shall elect the Council of the Authority. The first Council shall be constituted in a manner consistent with the purpose of article 161 if the provisions of that article cannot be strictly applied.

4. The rules, regulations and procedures drafted by the Preparatory Commission shall apply provisionally pending their formal adoption by the Authority in accordance with Part XI.

5. The Authority and its organs shall act in accordance with resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment and with decisions of the Preparatory Commission taken pursuant to that resolution.

Article 309
Reservations and exceptions

No reservations or exceptions may be made to this Convention unless expressly permitted by other articles of this Convention.

Article 310
Declarations and statements

Article 309 does not preclude a State, when signing, ratifying or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State.

Article 311
Relation to other conventions and international agreements

1. This Convention shall prevail, as between States Parties, over the Geneva Conventions on the Law of the Sea of 29 April 1958.

2. This Convention shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Convention and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

3. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Convention, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Convention, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

4. States Parties intending to conclude an agreement referred to in paragraph 3 shall notify the other States Parties through the depositary of this Convention of their intention to conclude the agreement and of the modification or suspension for which it provides.

5. This article does not affect international agreements expressly permitted or preserved by other articles of this Convention.

6. States Parties agree that there shall be no amendments to the basic principle relating to the common heritage of mankind set forth in article 136 and that they shall not be party to any agreement in derogation thereof.

Article 312
Amendment

1. After the expiry of a period of 10 years from the date of entry into force of this Convention, a State Party may, by written communication addressed to the Secretary-General of the United Nations, propose specific amendments to this Convention, other than those relating to activities in the Area, and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within 12 months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

Article 313
Amendment by simplified procedure

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose an amendment to this Convention, other than an amendment relating to activities in the Area, to be adopted by the simplified procedure set forth in this article without convening a conference. The Secretary-General shall circulate the communication to all States Parties.

2. If, within a period of 12 months from the date of the circulation of the communication, a State Party objects to the proposed amendment or to the proposal for its adoption by the simplified procedure, the amendment shall be considered rejected. The Secretary-General shall immediately notify all States Parties accordingly.

3. If, 12 months from the date of the circulation of the communication, no State Party has objected to the proposed amendment or to the proposal for its adoption by the simplified procedure, the proposed amendment shall be considered adopted. The Secretary-General shall notify all States Parties that the proposed amendment has been adopted.

Article 314
Amendments to the provisions of this Convention relating exclusively to activities in the Area

1. A State Party may, by written communication addressed to the Secretary-General of the Authority, propose an amendment to the provisions of this Convention relating exclusively to activities in the Area, including Annex VI, section 4. The Secretary-General shall circulate such communication to all States Parties. The proposed amendment shall be subject to approval by the Assembly following its approval by the Council. Representatives of States Parties in those organs shall have full powers to consider and approve the proposed amendment. The proposed amendment as approved by the Council and the Assembly shall be considered adopted.

2. Before approving any amendment under paragraph 1, the Council and the Assembly shall ensure that it does not prejudice the system of exploration for and exploitation of the resources of the Area, pending the Review Conference in accordance with article 155.

Article 315
Signature, ratification of, accession to and authentic texts of amendments

1. Once adopted, amendments to this Convention shall be open for signature by States Parties for 12 months from the date of adoption, at United Nations Headquarters in New York, unless otherwise provided in the amendment itself.

2. Articles 306, 307 and 320 apply to all amendments to this Convention.

Article 316
Entry into force of amendments

1. Amendments to this Convention, other than those referred to in paragraph 5, shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties or by 60 States Parties, whichever is greater. Such amendments shall not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

2. An amendment may provide that a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

3. For each State Party ratifying or acceding to an amendment referred to in paragraph 1 after the deposit of the required number of instruments of ratification or accession, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

4. A State which becomes a Party to this Convention after the entry into force of an amendment in accordance with paragraph 1 shall, failing an expression of a different intention by that State:

(a) be considered as a Party to this Convention as so amended; and

(b) be considered as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

5. Any amendment relating exclusively to activities in the Area and any amendment to Annex VI shall enter into force for all States Parties one year following the deposit of instruments of ratification or accession by three fourths of the States Parties.

6. A State which becomes a Party to this Convention after the entry into force of amendments in accordance with paragraph 5 shall be considered as a Party to this Convention as so amended.

Article 317
Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Convention and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. A State shall not be discharged by reason of the denunciation from the financial and contractual obligations which accrued while it was a Party to this Convention, nor shall the denunciation affect any right, obligation or legal situation of that State created through the execution of this Convention prior to its termination for that State.

3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

Article 318
Status of Annexes

The Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention or to one of its Parts includes a reference to the Annexes relating thereto.

Article 319
Depositary

1. The Secretary-General of the United Nations shall be the depositary of this Convention and amendments thereto.

2. In addition to his functions as depositary, the Secretary-General shall:

(a) report to all States Parties, the Authority and competent international organizations on issues of a general nature that have arisen with respect to this Convention;

(b) notify the Authority of ratifications and formal confirmations of and accessions to this Convention and amendments thereto, as well as of denunciations of this Convention;

(c) notify States Parties of agreements in accordance with article 311, paragraph 4;

(d) circulate amendments adopted in accordance with this Convention to States Parties for ratification or accession;

(e) convene necessary meetings of States Parties in accordance with this Convention.

3. (a) The Secretary-General shall also transmit to the observers referred to in article 156:

(i) reports referred to in paragraph 2(a);

(ii) notifications referred to in paragraph 2(b) and (c); and

(iii) texts of amendments referred to in paragraph 2(d), for their information.

(b) The Secretary-General shall also invite those observers to participate as observers at meetings of States Parties referred to in paragraph 2(e).

Article 320
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall, subject to article 305, paragraph 2, be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

DONE AT MONTEGO BAY, this tenth day of December, one thousand nine hundred and eighty-two.

ANNEX I. HIGHLY MIGRATORY SPECIES

1. Albacore tuna: *Thunnus alalunga.*
2. Bluefin tuna: *Thunnus thynnus.*
3. Bigeye tuna: *Thunnus obesus.*
4. Skipjack tuna: *Katsuwonus pelamis.*
5. Yellowfin tuna: *Thunnus albacares.*
6. Blackfin tuna: *Thunnus atlanticus.*
7. Little tuna: *Euthynnus alletteratus; Euthynnus affinis.*
8. Southern bluefin tuna: *Thunnus maccoyii.*
9. Frigate mackerel: *Auxis thazard; Auxis rochei.*
10. Pomfrets: Family *Bramidae.*
11. Marlins: *Tetrapturus angustirostris; Tetrapturus belone; Tetrapturus pfluegeri; Tetrapturus albidus; Tetrapturus audax; Tetrapturus georgei; Makaira mazara; Makaira indica; Makaira nigricans.*
12. Sail-fishes: *Istiophorus platypterus; Istiophorus albicans.*
13. Swordfish: *Xiphias gladius.*
14. Sauries: *Scomberesox saurus; Cololabis saira; Cololabis adocetus; Scomberesox saurus scombroides.*
15. Dolphin: *Coryphaena hippurus; Coryphaena equiselis.*
16. Oceanic sharks: *Hexanchus griseus; Cetorhinus maximus; Family Alopiidae; Rhincodon typus; Family Carcharhinidae; Family Sphyrnidae; Family Isurida.*
17. Cetaceans: Family *Physeteridae;* Family *Balaenopteridae;* Family *Balaenidae;* Family *Eschrichtiidae;* Family *Monodontidae;* Family *Ziphiidae;* Family *Delphinidae.*

ANNEX II. COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

Article 1

In accordance with the provisions of article 76, a Commission on the Limits of the Continental Shelf beyond 200 nautical miles shall be established in conformity with the following articles.

Article 2

1. The Commission shall consist of 21 members who shall be experts in the field of geology, geophysics or hydrography, elected by States Parties to this Convention from among their nationals, having due regard to the need to ensure equitable geographical representation, who shall serve in their personal capacities.

2. The initial election shall be held as soon as possible but in any case within 18 months after the date of entry into force of this Convention. At least three months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties, inviting the submission of nominations, after appropriate regional consultations, within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to all the States Parties.

3. Elections of the members of the Commission shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Commission shall be those nominees who obtain a two-thirds majority of the votes of the representatives of States Parties present and voting. Not less than three members shall be elected from each geographical region.

4. The members of the Commission shall be elected for a term of five years. They shall be eligible for re-election.

5. The State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties. The coastal State concerned shall defray the expenses incurred in respect of the advice referred to in article 3, paragraph 1 (b), of this Annex. The secretariat of the Commission shall be provided by the Secretary-General of the United Nations.

Article 3

1. The functions of the Commission shall be:

(a) to consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;

(b) to provide scientific and technical advice, if requested by the coastal State concerned during the preparation of the data referred to in subparagraph (a).

2. The Commission may co-operate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of UNESCO, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities.

Article 4

Where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State. The coastal State shall at the same time give the names of any Commission members who have provided it with scientific and technical advice.

Article 5

Unless the Commission decides otherwise, the Commission shall function by way of sub-commissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal State. Nationals of the coastal State making the submission who are members of the Commission and any Commission member who has assisted a coastal State by providing scientific and technical advice with respect to the delineation shall not be a member of the sub-commission dealing with that submission but has the right to participate as a member in the proceedings of the Commission concerning the said submission. The coastal State which has

made a submission to the Commission may send its representatives to participate in the relevant proceedings without the right to vote.

Article 6

1. The sub-commission shall submit its recommendations to the Commission.
2. Approval by the Commission of the recommendations of the sub-commission shall be by a majority of two thirds of Commission members present and voting.
3. The recommendations of the Commission shall be submitted in writing to the coastal State which made the submission and to the Secretary-General of the United Nations.

Article 7

Coastal States shall establish the outer limits of the continental shelf in conformity with the provisions of article 76, paragraph 8, and in accordance with the appropriate national procedures.

Article 8

In the case of disagreement by the coastal State with the recommendations of the Commission, the coastal State shall, within a reasonable time, make a revised or new submission to the Commission.

Article 9

The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts.

ANNEX III. BASIC CONDITIONS OF PROSPECTING, EXPLORATION AND EXPLOITATION

Article 1
Title to minerals

Title to minerals shall pass upon recovery in accordance with this Convention.

Article 2
Prospecting

1. (a) The Authority shall encourage prospecting in the Area.
(b) Prospecting shall be conducted only after the Authority has received a satisfactory written undertaking that the proposed prospector will comply with this Convention and the relevant rules, regulations and procedures of the Authority concerning co-operation in the training programmes referred to in articles 143 and 144 and the protection of the marine environment, and will accept verification by the Authority of compliance therewith. The proposed prospector shall, at the same time, notify the Authority of the approximate area or areas in which prospecting is to be conducted.
(c) Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

2. Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals to be used for testing.

Article 3
Exploration and exploitation

1. The Enterprise, States Parties, and the other entities referred to in article 153, paragraph 2(b), may apply to the Authority for approval of plans of work for activities in the Area.

2. The Enterprise may apply with respect to any part of the Area, but applications by others with respect to reserved areas are subject to the additional requirements of article 9 of this Annex.

3. Exploration and exploitation shall be carried out only in areas specified in plans of work referred to in article 153, paragraph 3, and approved by the Authority in accordance with this Convention and the relevant rules, regulations and procedures of the Authority.

4. Every approved plan of work shall:

(a) be in conformity with this Convention and the rules, regulations and procedures of the Authority;

(b) provide for control by the Authority of activities in the Area in accordance with article 153, paragraph 4;

(c) confer on the operator, in accordance with the rules, regulations and procedures of the Authority, the exclusive right to explore for and exploit the specified categories of resources in the area covered by the plan of work. If, however, the applicant presents for approval a plan of work covering only the stage of exploration or the stage of exploitation, the approved plan of work shall confer such exclusive right with respect to that stage only.

5. Upon its approval by the Authority, every plan of work, except those presented by the Enterprise, shall be in the form of a contract concluded between the Authority and the applicant or applicants.

Article 4
Qualifications of applicants

1. Applicants, other than the Enterprise, shall be qualified if they have the nationality or control and sponsorship required by article 153, paragraph 2(b), and if they follow the procedures and meet the qualification standards set forth in the rules, regulations and procedures of the Authority.

2. Except as provided in paragraph 6, such qualification standards shall relate to the financial and technical capabilities of the applicant and his performance under any previous contracts with the Authority.

3. Each applicant shall be sponsored by the State Party of which it is a national unless the applicant has more than one nationality, as in the case of a partnership or consortium of entities from several States, in which event all States Parties involved shall sponsor the application, or unless the applicant is effectively controlled by another State Party or its nationals, in which event both States Parties shall sponsor the application. The criteria and procedures for implementation of the sponsorship requirements shall be set forth in the rules, regulations and procedures of the Authority.

4. The sponsoring State or States shall, pursuant to article 139, have the responsibility to ensure, within their legal systems, that a contractor so sponsored shall carry out activities in the Area in conformity with the terms of its contract

and its obligations under this Convention. A sponsoring State shall not, however, be liable for damage caused by any failure of a contractor sponsored by it to comply with its obligations if that State Party has adopted laws and regulations and taken administrative measures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction.

5. The procedures for assessing the qualifications of States Parties which are applicants shall take into account their character as States.

6. The qualification standards shall require that every applicant, without exception, shall as part of his application undertake:

(a) to accept as enforceable and comply with the applicable obligations created by the provisions of Part XI, the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and terms of his contracts with the Authority;

(b) to accept control by the Authority of activities in the Area, as authorized by this Convention;

(c) to provide the Authority with a written assurance that his obligations under the contract will be fulfilled in good faith;

(d) to comply with the provisions on the transfer of technology set forth in article 5 of this Annex.

Article 5
Transfer of technology

1. When submitting a plan of work, every applicant shall make available to the Authority a general description of the equipment and methods to be used in carrying out activities in the Area, and other relevant non-proprietary information about the characteristics of such technology and information as to where such technology is available.

2. Every operator shall inform the Authority of revisions in the description and information made available pursuant to paragraph 1 whenever a substantial technological change or innovation is introduced.

3. Every contract for carrying out activities in the Area shall contain the following undertakings by the contractor:

(a) to make available to the Enterprise on fair and reasonable commercial terms and conditions, whenever the Authority so requests, the technology which he uses in carrying out activities in the Area under the contract, which the contractor is legally entitled to transfer. This shall be done by means of licences or other appropriate arrangements which the contractor shall negotiate with the Enterprise and which shall be set forth in a specific agreement supplementary to the contract. This undertaking may be invoked only if the Enterprise finds that it is unable to obtain the same or equally efficient and useful technology on the open market on fair and reasonable commercial terms and conditions;

(b) to obtain a written assurance from the owner of any technology used in carrying out activities in the Area under the contract, which is not generally available on the open market and which is not covered by subparagraph (a), that the owner will, whenever the Authority so requests, make that technology available to the Enterprise under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, to the same extent as made available to the contractor. If this assurance is not obtained, the technology in question shall not be used by the contractor in carrying out activities in the Area;

(c) to acquire from the owner by means of an enforceable contract, upon the request of the Enterprise and if it is possible to do so without substantial cost to the contractor, the legal right to transfer to the Enterprise any technology used by the contractor, in carrying out activities in the Area under the contract, which the contractor is otherwise not legally entitled to transfer and which is not generally available on the open market. In cases where there is a substantial corporate relationship between the contractor and the owner of the technology, the closeness of this relationship and the degree of control or influence shall be relevant to the determination whether all feasible measures have been taken to acquire such a right. In cases where the contractor exercises effective control over the owner, failure to acquire from the owner the legal right shall be considered relevant to the contractor's qualification for any subsequent application for approval of a plan of work;

(d) to facilitate, upon the request of the Enterprise, the acquisition by the Enterprise of any technology covered by subparagraph (b), under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, if the Enterprise decides to negotiate directly with the owner of the technology;

(e) to take the same measures as are prescribed in subparagraphs (a), (b), (c) and (d) for the benefit of a developing State or group of developing States which has applied for a contract under article 9 of this Annex, provided that these measures shall be limited to the exploitation of the part of the area proposed by the contractor which has been reserved pursuant to article 8 of this Annex and provided that activities under the contract sought by the developing State or group of developing States would not involve transfer of technology to a third State or the nationals of a third State. The obligation under this provision shall only apply with respect to any given contractor where technology has not been requested by the Enterprise or transferred by that contractor to the Enterprise.

4. Disputes concerning undertakings required by paragraph 3, like other provisions of the contracts, shall be subject to compulsory settlement in accordance with Part XI and, in cases of violation of these undertakings, suspension or termination of the contract or monetary penalties may be ordered in accordance with article 18 of this Annex. Disputes as to whether offers made by the contractor are within the range of fair and reasonable commercial terms and conditions may be submitted by either party to binding commercial arbitration in accordance with the UNCITRAL Arbitration Rules or such other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority. If the finding is that the offer made by the contractor is not within the range of fair and reasonable commercial terms and conditions, the contractor shall be given 45 days to revise his offer to bring it within that range before the Authority takes any action in accordance with article 18 of this Annex.

5. If the Enterprise is unable to obtain on fair and reasonable commercial terms and conditions appropriate technology to enable it to commence in a timely manner the recovery and processing of minerals from the Area, either the Council or the Assembly may convene a group of States Parties composed of those which are engaged in activities in the Area, those which have sponsored entities which are engaged in activities in the Area and other States Parties having access to such technology. This group shall consult together and shall take effective measures to ensure that such technology is made available to the Enterprise on fair and reasonable commercial terms and conditions. Each such State Party shall take all feasible measures to this end within its own legal system.

6. In the case of joint ventures with the Enterprise, transfer of technology will be in accordance with the terms of the joint venture agreement.

7. The undertakings required by paragraph 3 shall be included in each contract for the carrying out of activities in the Area until 10 years after the commencement of commercial production by the Enterprise, and may be invoked during that period.

8. For the purposes of this article, "technology" means the specialized equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a non-exclusive basis.

Article 6
Approval of plans of work

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration proposed plans of work.

2. When considering an application for approval of a plan of work in the form of a contract, the Authority shall first ascertain whether:

(a) the applicant has complied with the procedures established for applications in accordance with article 4 of this Annex and has given the Authority the undertakings and assurances required by that article. In cases of non-compliance with these procedures or in the absence of any of these undertakings and assurances, the applicant shall be given 45 days to remedy these defects;

(b) the applicant possesses the requisite qualifications provided for in article 4 of this Annex.

3. All proposed plans of work shall be taken up in the order in which they are received. The proposed plans of work shall comply with and be governed by the relevant provisions of this Convention and the rules, regulations and procedures of the Authority, including those on operational requirements, financial contributions and the undertakings concerning the transfer of technology. If the proposed plans of work conform to these requirements, the Authority shall approve them provided that they are in accordance with the uniform and non-discriminatory requirements set forth in the rules, regulations and procedures of the Authority, unless:

(a) part or all of the area covered by the proposed plan of work is included in an approved plan of work or a previously submitted proposed plan of work which has not yet been finally acted on by the Authority;

(b) part or all of the area covered by the proposed plan of work is disapproved by the Authority pursuant to article 162, paragraph 2 (x); or

(c) the proposed plan of work has been submitted or sponsored by a State Party which already holds:

(i) plans of work for exploration and exploitation of polymetallic nodules in non-reserved areas that, together with either part of the area covered by the application for a plan of work, exceed in size 30 per cent of a circular area of 400,000 square kilometres surrounding the centre of either part of the area covered by the proposed plan of work;

(ii) plans of work for the exploration and exploitation of polymetallic nodules in non-reserved areas which, taken together, constitute 2 per cent of the total sea-bed area which is not reserved or disapproved for exploitation pursuant to article 162, paragraph (2)(x).

4. For the purpose of the standard set forth in paragraph 3(c), a plan of work submitted by a partnership or consortium shall be counted on a *pro rata* basis among the sponsoring States Parties involved in accordance with article 4, paragraph 3, of this Annex. The Authority may approve plans of work covered by paragraph 3(c) if it determines that such approval would not permit a State Party or entities sponsored by it to monopolize the conduct of activities in the Area or to preclude other States Parties from activities in the Area.

5. Notwithstanding paragraph 3(a), after the end of the interim period specified in article 151, paragraph 3, the Authority may adopt by means of rules, regulations and procedures other procedures and criteria consistent with this Convention for deciding which applicants shall have plans of work approved in cases of selection among applicants for a proposed area. These procedures and criteria shall ensure approval of plans of work on an equitable and non-discriminatory basis.

Article 7
Selection among applicants for production authorizations

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration applications for production authorizations submitted during the immediately preceding period. The Authority shall issue the authorizations applied for if all such applications can be approved without exceeding the production limitation or contravening the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided in article 151.

2. When a selection must be made among applicants for production authorizations because of the production limitation set forth in article 151, paragraphs 2 to 7, or because of the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 151, paragraph 1, the Authority shall make the selection on the basis of objective and non-discriminatory standards set forth in its rules, regulations and procedures.

3. In the application of paragraph 2, the Authority shall give priority to those applicants which:

(a) give better assurance of performance, taking into account their financial and technical qualifications and their performance, if any, under previously approved plans of work;

(b) provide earlier prospective financial benefits to the Authority, taking into account when commercial production is scheduled to begin;

(c) have already invested the most resources and effort in prospecting or exploration.

4. Applicants which are not selected in any period shall have priority in subsequent periods until they receive a production authorization.

5. Selection shall be made taking into account the need to enhance opportunities for all States Parties, irrespective of their social and economic systems or geographical locations so as to avoid discrimination against any State or system, to participate in activities in the Area and to prevent monopolization of those activities.

6. Whenever fewer reserved areas than non-reserved areas are under exploitation, applications for production authorizations with respect to reserved areas shall have priority.

7. The decisions referred to in this article shall be taken as soon as possible after the close of each period.

Article 8
Reservation of areas

Each application, other than those submitted by the Enterprise or by any other entities for reserved areas, shall cover a total area, which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The applicant shall indicate the co-ordinates dividing the area into two parts of equal estimated commercial value and submit all the data obtained by him with respect to both parts. Without prejudice to the powers of the Authority pursuant to article 17 of this Annex, the data to be submitted concerning polymetallic nodules shall relate to mapping, sampling, the abundance of nodules, and their metal content. Within 45 days of receiving such data, the Authority shall designate which part is to be reserved solely for the conduct of activities by the Authority through the Enterprise or in association with developing States. This designation may be deferred for a further period of 45 days if the Authority requests an independent expert to assess whether all data required by this article has been submitted. The area designated shall become a reserved area as soon as the plan of work for the non-reserved area is approved and the contract is signed.

Article 9
Activities in reserved areas

1. The Enterprise shall be given an opportunity to decide whether it intends to carry out activities in each reserved area. This decision may be taken at any time, unless a notification pursuant to paragraph 4 is received by the Authority, in which event the Enterprise shall take its decision within a reasonable time. The Enterprise may decide to exploit such areas in joint ventures with the interested State or entity.

2. The Enterprise may conclude contracts for the execution of part of its activities in accordance with Annex IV, article 12. It may also enter into joint ventures for the conduct of such activities with any entities which are eligible to carry out activities in the Area pursuant to article 153, paragraph 2(b). When considering such joint ventures, the Enterprise shall offer to States Parties which are developing States and their nationals the opportunity of effective participation.

3. The Authority may prescribe, in its rules, regulations and procedures, substantive and procedural requirements and conditions with respect to such contracts and joint ventures.

4. Any State Party which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by other developing State which is a qualified applicant, or any group of the foregoing, may notify the Authority that it wishes to submit a plan of work pursuant to article 6 of this Annex with respect to a reserved area. The plan of work shall be considered if the Enterprise decides, pursuant to paragraph 1, that it does not intend to carry out activities in that area.

Article 10
Preference and priority among applicants

An operator who has an approved plan of work for exploration only, as provided in article 3, paragraph 4(c), of this Annex shall have a preference and a priority among applicants for a plan of work covering exploitation of the same area and resources. However, such preference or priority may be withdrawn if the operator's performance has not been satisfactory.

Article 11
Joint arrangements

1. Contracts may provide for joint arrangements between the contractor and the Authority through the Enterprise, in the form of joint ventures or production sharing, as well as any other form of joint arrangement, which shall have the same protection against revision, suspension or termination as contracts with the Authority.

2. Contractors entering into such joint arrangements with the Enterprise may receive financial incentives as provided for in article 13 of this Annex.

3. Partners in joint ventures with the Enterprise shall be liable for the payments required by article 13 of this Annex to the extent of their share in the joint ventures, subject to financial incentives as provided for in that article.

Article 12
Activities carried out by the Enterprise

1. Activities in the Area carried out by the Enterprise pursuant to article 153, paragraph 2(a), shall be governed by Part XI, the rules, regulations and procedures of the Authority and its relevant decisions.

2. Any plan of work submitted by the Enterprise shall be accompanied by evidence supporting its financial and technical capabilities.

Article 13
Financial terms of contracts

1. In adopting rules, regulations and procedures concerning the financial terms of a contract between the Authority and the entities referred to in article 153, paragraph 2(b), and in negotiating those financial terms in accordance with Part XI and those rules, regulations and procedures, the Authority shall be guided by the following objectives:

(a) to ensure optimum revenues for the Authority from the proceeds of commercial production;

(b) to attract investments and technology to the exploration and exploitation of the Area;

(c) to ensure equality of financial treatment and comparable financial obligations for contractors;

(d) to provide incentives on a uniform and non-discriminatory basis for contractors to undertake joint arrangements with the Enterprise and developing States or their nationals, to stimulate the transfer of technology thereto, and to train the personnel of the Authority and of developing States;

(e) to enable the Enterprise to engage in sea-bed mining effectively at the same time as the entities referred to in article 153, paragraph 2(b); and

(f) to ensure that, as a result of the financial incentives provided to contractors under paragraph 14, under the terms of contracts reviewed in accordance with article 19 of this Annex or under the provisions of article 11 of this Annex with respect to joint ventures, contractors are not subsidized so as to be given an artificial competitive advantage with respect to land-based miners.

2. A fee shall be levied for the administrative cost of processing an application for approval of a plan of work in the form of a contract and shall be fixed at an amount of $US 500,000 per application. The amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the

administrative cost incurred. If such administrative cost incurred by the Authority in processing an application is less than the fixed amount, the Authority shall refund the difference to the applicant.

3. A contractor shall pay an annual fixed fee of $US 1 million from the date of entry into force of the contract. If the approved date of commencement of commercial production is postponed because of a delay in issuing the production authorization, in accordance with article 151, the annual fixed fee shall be waived for the period of postponement. From the date of commencement of commercial production, the contractor shall pay either the production charge or the annual fixed fee, whichever is greater.

4. Within a year of the date of commencement of commercial production, in conformity with paragraph 3, a contractor shall choose to make his financial contribution to the Authority by either:

(a) paying a production charge only; or

(b) paying a combination of a production charge and a share of net proceeds.

5. (a) If a contractor chooses to make his financial contribution to the Authority by paying a production charge only, it shall be fixed at a percentage of the market value of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:

(i) years 1-10 of commercial production	5 per cent
(ii) years 11 to the end of commercial production	12 per cent

(b) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules extracted from the area covered by the contract and the average price for those metals during the relevant accounting year, as defined in paragraphs 7 and 8.

6. If a contractor chooses to make his financial contribution to the Authority by paying a combination of a production charge and a share of net proceeds, such payments shall be determined as follows:

(a) The production charge shall be fixed at a percentage of the market value, determined in accordance with subparagraph (b), of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:

(i) first period of commercial production	2 per cent
(ii) second period of commercial production	4 per cent

If, in the second period of commercial production, as defined in subparagraph (d), the return on investment in any accounting year as defined in subparagraph (m) falls below 15 per cent as a result of the payment of the production charge at 4 per cent, the production charge shall be 2 per cent instead of 4 per cent in that accounting year.

(b) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract and the average price for those metals during the relevant accounting year as defined in paragraphs 7 and 8.

(c) (i) The Authority's share of net proceeds shall be taken out of that portion of the contractor's net proceeds which is attributable to the mining of the resources of the area covered by the contract, referred to hereinafter as attributable net proceeds.

(ii) The Authority's share of attributable net proceeds shall be determined in accordance with the following incremental schedule:

Portion of attributable net proceeds	*Share of the Authority*	
	First period of commercial production	*Second period of commercial production*
That portion representing a return on investment which is greater than 0 per cent, but less than 10 per cent	35 per cent	40 per cent
That portion representing a return on investment which is 10 per cent or greater, but less than 20 per cent	42.5 per cent	50 per cent
That portion representing a return on investment which is 20 per cent or greater	50 per cent	70 per cent

(d) (i) The first period of commercial production referred to in subparagraphs (a) and (c) shall commence in the first accounting year of commercial production and terminate in the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recovered by his cash surplus, as follows:

In the first accounting year during which development costs are incurred, unrecovered development costs shall equal the development costs less cash surplus in that year. In each subsequent accounting year, unrecovered development costs shall equal the unrecovered development costs at the end of the preceding accounting year, plus interest thereon at the rate of 10 per cent per annum, plus development costs incurred in the current accounting year and less contractor's cash surplus in the current accounting year. The accounting year in which unrecovered development costs become zero for the first time shall be the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recovered by his cash surplus. The contractor's cash surplus in any accounting year shall be his gross proceeds less his operating costs and less his payments to the Authority under subparagraph (c).

(ii) The second period of commercial production shall commence in the accounting year following the termination of the first period of commercial production and shall continue until the end of the contract.

(e) "Attributable net proceeds" means the product of the contractor's net proceeds and the ratio of the development costs in the mining sector to the contractor's development costs. If the contractor engages in mining, transporting polymetallic nodules and production primarily of three processed metals, namely, cobalt, copper and nickel, the amount of attributable net proceeds shall not be less than 25 per cent of the contractor's net proceeds. Subject to subparagraph (n), in all other cases, including those where the contractor engages in mining, transporting polymetallic nodules, and production primarily of four processed metals, namely, cobalt, copper, manganese and nickel, the Authority may, in its rules, regulations and procedures, prescribe appropriate floors which shall bear the same relationship to each case as the 25 per cent floor does to the three-metal case.

(f) "Contractor's net proceeds" means the contractor's gross proceeds less his operating costs and less the recovery of his development costs as set out in subparagraph (j).

(g) (i) If the contractor engages in mining, transporting polymetallic nodules and production of processed metals, "contractor's gross proceeds" means the gross revenues from the sale of the processed metals and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.

(ii) In all cases other than those specified in subparagraphs (g) (i) and (n) (iii), "contractor's gross proceeds" means the gross revenues from the sale of the semi-processed metals from the polymetallic nodules recovered from the area covered by the contract, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.

(h) "Contractor's development costs" means:

(i) all expenditures incurred prior to the commencement of commercial production which are directly related to the development of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract in all cases other than that specified in subparagraph (n), in conformity with generally recognized accounting principles, including, *inter alia*, costs of machinery, equipment, ships, processing plant, construction, buildings, land, roads, prospecting and exploration of the area covered by the contract, research and development, interest, required leases, licences and fees; and

(ii) expenditures similar to those set forth in (i) above incurred subsequent to the commencement of commercial production and necessary to carry out the plan of work, except those chargeable to operating costs.

(i) The proceeds from the disposal of capital assets and the market value of those capital assets which are no longer required for operations under the contract and which are not sold shall be deducted from the contractor's development costs during the relevant accounting year. When these deductions exceed the contractor's development costs the excess shall be added to the contractor's gross proceeds.

(j) The contractor's development costs incurred prior to the commencement of commercial production referred to in subparagraphs (h) (i) and (n) (iv) shall be recovered in 10 equal annual instalments from the date of commencement of commercial production. The contractor's development costs incurred subsequent to the commencement of commercial production referred to in subparagraphs (h) (ii) and (n) (iv) shall be recovered in 10 or fewer equal annual instalments so as to ensure their complete recovery by the end of the contract.

(k) "Contractor's operating costs" means all expenditures incurred after the commencement of commercial production in the operation of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract, in conformity with generally recognized accounting principles, including, *inter alia*, the annual fixed fee or the production charge, whichever is greater, expenditures for wages, salaries, employee benefits, materials, services, trans-

porting, processing and marketing costs, interest, utilities, preservation of the marine environment, overhead and administrative costs specifically related to operations under the contract, and any net operating losses carried forward or backward as specified herein. Net operating losses may be carried forward for two consecutive years except in the last two years of the contract in which case they may be carried backward to the two preceding years.

(l) If the contractor engages in mining, transporting of polymetallic nodules, and production of processed and semi-processed metals, "development costs of the mining sector" means the portion of the contractor's development costs which is directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles, and the financial rules, regulations and procedures of the Authority, including, *inter alia*, application fee, annual fixed fee and, where applicable, costs of prospecting and exploration of the area covered by the contract, and a portion of research and development costs.

(m) "Return on investment" in any accounting year means the ratio of attributable net proceeds in that year to the development costs of the mining sector. For the purpose of computing this ratio the development costs of the mining sector shall include expenditures on new or replacement equipment in the mining sector less the original cost of the equipment replaced.

(n) If the contractor engages in mining only:

(i) "attributable net proceeds" means the whole of the contractor's net proceeds;

(ii) "contractor's net proceeds" shall be as defined in subparagraph (f);

(iii) "contractor's gross proceeds" means the gross revenues from the sale of the polymetallic nodules, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority;

(iv) "contractor's development costs" means all expenditures incurred prior to the commencement of commercial production as set forth in subparagraph (h)(i), and all expenditures incurred subsequent to the commencement of commercial production as set forth in subparagraph (h)(ii), which are directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles;

(v) "contractor's operating costs" means the contractor's operating costs as in subparagraph (k) which are directly related to the mining of the resources of the area covered by the contract in conformity with generally recognized accounting principles;

(vi) "return on investment" in any accounting year means the ratio of the contractor's net proceeds in that year to the contractor's development costs. For the purpose of computing this ratio, the contractor's development costs shall include expenditures on new or replacement equipment less the original cost of the equipment replaced.

(o) The costs referred to in subparagraphs (h), (k), (l) and (n) in respect of interest paid by the contractor shall be allowed to the extent that, in all the circumstances, the Authority approves, pursuant to article 4, paragraph 1, of this Annex, the debt-equity ratio and the rates of interest as reasonable, having regard to existing commercial practice.

(p) The costs referred to in this paragraph shall not be interpreted as including payments of corporate income taxes or similar charges levied by States in respect of the operations of the contractor.

7. (a) "Processed metals", referred to in paragraphs 5 and 6, means the metals in the most basic form in which they are customarily traded on international terminal markets. For this purpose, the Authority shall specify, in its financial rules, regulations and procedures, the relevant international terminal market. For the metals which are not traded on such markets, "processed metals" means the metals in the most basic form in which they are customarily traded in representative arm's length transactions.

(b) If the Authority cannot otherwise determine the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract referred to in paragraphs 5 (b) and 6 (b), the quantity shall be determined on the basis of the metal content of the nodules, processing recovery efficiency and other relevant factors, in accordance with the rules, regulations and procedures of the Authority and in conformity with generally recognized accounting principles.

8. If an international terminal market provides a representative pricing mechanism for processed metals, polymetallic nodules and semi-processed metals from the nodules, the average price on that market shall be used. In all other cases, the Authority shall, after consulting the contractor, determine a fair price for the said products in accordance with paragraph 9.

9. (a) All costs, expenditures, proceeds and revenues and all determinations of price and value referred to in this article shall be the result of free market or arm's length transactions. In the absence thereof, they shall be determined by the Authority, after consulting the contractor, as though they were the result of free market or arm's length transactions, taking into account relevant transactions in other markets.

(b) In order to ensure compliance with and enforcement of the provisions of this paragraph, the Authority shall be guided by the principles adopted for, and the interpretation given to, arm's length transactions by the Commission on Transnational Corporations of the United Nations, the Group of Experts on Tax Treaties between Developing and Developed Countries and other international organizations, and shall, in its rules, regulations and procedures, specify uniform and internationally acceptable accounting rules and procedures, and the means of selection by the contractor of certified independent accountants acceptable to the Authority for the purpose of carrying out auditing in compliance with those rules, regulations and procedures.

10. The contractor shall make available to the accountants, in accordance with the financial rules, regulations and procedures of the Authority, such financial data as are required to determine compliance with this article.

11. All costs, expenditures, proceeds and revenues, and all prices and values referred to in this article, shall be determined in accordance with generally recognized accounting principles and the financial rules, regulations and procedures of the Authority.

12. Payments to the Authority under paragraphs 5 and 6 shall be made in freely usable currencies or currencies which are freely available and effectively usable on the major foreign exchange markets or, at the contractor's option, in the equivalents of processed metals at market value. The market value shall be determined in accordance with paragraph 5(b). The freely usable currencies

and currencies which are freely available and effectively usable on the major foreign exchange markets shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing international monetary practice.

13. All financial obligations of the contractor to the Authority, as well as all his fees, costs, expenditures, proceeds and revenues referred to in this article, shall be adjusted by expressing them in constant terms relative to a base year.

14. The Authority may, taking into account any recommendations of the Economic Planning Commission and the Legal and Technical Commission, adopt rules, regulations and procedures that provide for incentives, on a uniform and non-discriminatory basis, to contractors to further the objectives set out in paragraph 1.

15. In the event of a dispute between the Authority and a contractor over the interpretation or application of the financial terms of a contract, either party may submit the dispute to binding commercial arbitration, unless both parties agree to settle the dispute by other means, in accordance with article 188, paragraph 2.

Article 14
Transfer of data

1. The operator shall transfer to the Authority, in accordance with its rules, regulations and procedures and the terms and conditions of the plan of work, at time intervals determined by the Authority all data which are both necessary for and relevant to the effective exercise of the powers and functions of the principal organs of the Authority in respect of the area covered by the plan of work.

2. Transferred data in respect of the area covered by the plan of work, deemed proprietary, may only be used for the purposes set forth in this article. Data necessary for the formulation by the Authority of rules, regulations and procedures concerning protection of the marine environment and safety, other than equipment design data, shall not be deemed proprietary.

3. Data transferred to the Authority by prospectors, applicants for contracts or contractors, deemed proprietary, shall not be disclosed by the Authority to the Enterprise or to anyone external to the Authority, but data on the reserved areas may be disclosed to the Enterprise. Such data transferred by such persons to the Enterprise shall not be disclosed by the Enterprise to the Authority or to anyone external to the Authority.

Article 15
Training programmes

The contractor shall draw up practical programmes for the training of personnel of the Authority and developing States, including the participation of such personnel in all activities in the Area which are covered by the contract, in accordance with article 144, paragraph 2.

Article 16
Exclusive right to explore and exploit

The Authority shall, pursuant to Part XI and its rules, regulations and procedures, accord the operator the exclusive right to explore and exploit the area covered by the plan of work in respect of a specified category of resources and shall ensure that no other entity operates in the same area for a different category of resources in a manner which might interfere with the operations of the operator. The operator shall have security of tenure in accordance with article 153, paragraph 6.

Article 17
Rules, regulations and procedures of the Authority

1. The Authority shall adopt and uniformly apply rules, regulations and procedures in accordance with article 160, paragraph 2(f)(ii), and article 162, paragraph 2(o)(ii), for the exercise of its functions as set forth in Part XI on, *inter alia*, the following matters:

(a) administrative procedures relating to prospecting, exploration and exploitation in the Area;

(b) operations:
  (i) size of area;
  (ii) duration of operations;
  (iii) performance requirements including assurances pursuant to article 4, paragraph 6(c), of this Annex;
  (iv) categories of resources;
  (v) renunciation of areas;
  (vi) progress reports;
  (vii) submission of data;
  (viii) inspection and supervision of operations;
  (ix) prevention of interference with other activities in the marine environment;
  (x) transfer of rights and obligations by a contractor;
  (xi) procedures for transfer of technology to developing States in accordance with article 144 and for their direct participation;
  (xii) mining standards and practices, including those relating to operational safety, conservation of the resources and the protection of the marine environment;
  (xiii) definition of commercial production;
  (xiv) qualification standards for applicants;

(c) financial matters:
  (i) establishment of uniform and non-discriminatory costing and accounting rules and the method of selection of auditors;
  (ii) apportionment of proceeds of operations;
  (iii) the incentives referred to in article 13 of this Annex;

(d) implementation of decisions taken pursuant to article 151, paragraph 10, and article 164, paragraph 2(d).

2. Rules, regulations and procedures on the following items shall fully reflect the objective criteria set out below:

(a) Size of areas:

The Authority shall determine the appropriate size of areas for exploration which may be up to twice as large as those for exploitation in order to permit intensive exploration operations. The size of area shall be calculated to satisfy the requirements of article 8 of this Annex on reservation of areas as well as stated production requirements consistent with article 151 in accordance with the terms of the contract taking into account the state of the art of technology then available for sea-bed mining and the relevant physical characteristics of the areas. Areas shall be neither smaller nor larger than are necessary to satisfy this objective.

(b) Duration of operations:
  (i) Prospecting shall be without time-limit;
  (ii) Exploration should be of sufficient duration to permit a thorough survey of the specific area, the design and construction of mining

equipment for the area and the design and construction of small and medium-size processing plants for the purpose of testing mining and processing systems;

(iii) The duration of exploitation should be related to the economic life of the mining project, taking into consideration such factors as the depletion of the ore, the useful life of mining equipment and processing facilities and commercial viability. Exploitation should be of sufficient duration to permit commercial extraction of minerals of the area and should include a reasonable time period for construction of commercial-scale mining and processing systems, during which period commercial production should not be required. The total duration of exploitation, however, should also be short enough to give the Authority an opportunity to amend the terms and conditions of the plan of work at the time it considers renewal in accordance with rules, regulations and procedures which it has adopted subsequent to approving the plan of work.

(c) Performance requirements:

The Authority shall require that during the exploration stage periodic expenditures be made by the operator which are reasonably related to the size of the area covered by the plan of work and the expenditures which would be expected of a *bona fide* operator who intended to bring the area into commercial production within the time-limits established by the Authority. The required expenditures should not be established at a level which would discourage prospective operators with less costly technology than is prevalently in use. The Authority shall establish a maximum time interval, after the exploration stage is completed and the exploitation stage begins, to achieve commercial production. To determine this interval, the Authority should take into consideration that construction of large-scale mining and processing systems cannot be initiated until after the termination of the exploration stage and the commencement of the exploitation stage. Accordingly, the interval to bring an area into commercial production should take into account the time necessary for this construction after the completion of the exploration stage and reasonable allowance should be made for unavoidable delays in the construction schedule. Once commercial production is achieved, the Authority shall within reasonable limits and taking into consideration all relevant factors require the operator to maintain commercial production throughout the period of the plan of work.

(d) Categories of resources:

In determining the category of resources in respect of which a plan of work may be approved, the Authority shall give emphasis *inter alia* to the following characteristics:

(i) that certain resources require the use of similar mining methods; and

(ii) that some resources can be developed simultaneously without undue interference between operators developing different resources in the same area.

Nothing in this subparagraph shall preclude the Authority from approving a plan of work with respect to more than one category of resources in the same area to the same applicant.

(e) Renunciation of areas:

The operator shall have the right at any time to renounce without penalty the whole or part of his rights in the area covered by a plan of work.

(f) Protection of the marine environment:

Rules, regulations and procedures shall be drawn up in order to secure effective protection of the marine environment from harmful effects directly resulting from activities in the Area or from shipboard processing immediately above a mine site of minerals derived from that mine site, taking into account the extent to which such harmful effects may directly result from drilling, dredging, coring and excavation and from disposal, dumping and discharge into the marine environment of sediment, wastes or other effluents.

(g) Commercial production:

Commercial production shall be deemed to have begun if an operator engages in sustained large-scale recovery operations which yield a quantity of materials sufficient to indicate clearly that the principal purpose is large-scale production rather than production intended for information gathering, analysis or the testing of equipment or plant.

Article 18
Penalties

1. A contractor's rights under the contract may be suspended or terminated only in the following cases:

(a) if, in spite of warnings by the Authority, the contractor has conducted his activities in such a way as to result in serious, persistent and wilful violations of the fundamental terms of the contract, Part XI and the rules, regulations and procedures of the Authority; or

(b) if the contractor has failed to comply with a final binding decision of the dispute settlement body applicable to him.

2. In the case of any violation of the contract not covered by paragraph 1(a), or in lieu of suspension or termination under paragraph 1(a), the Authority may impose upon the contractor monetary penalties proportionate to the seriousness of the violation.

3. Except for emergency orders under article 162, paragraph 2(w), the Authority may not execute a decision involving monetary penalties, suspension or termination until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to him pursuant to Part XI, section 5.

Article 19
Revision of contract

1. When circumstances have arisen or are likely to arise which, in the opinion of either party, would render the contract inequitable or make it impracticable or impossible to achieve the objectives set out in the contract or in Part XI, the parties shall enter into negotiations to revise it accordingly.

2. Any contract entered into in accordance with article 153, paragraph 3, may be revised only with the consent of the parties.

Article 20
Transfer of rights and obligations

The rights and obligations arising under a contract may be transferred only with the consent of the Authority, and in accordance with its rules, regulations and procedures. The Authority shall not unreasonably withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant and assumes all of the obligations of the transferor and if the transfer does not confer

to the transferee a plan of work, the approval of which would be forbidden by article 6, paragraph 3(c), of this Annex.

Article 21
Applicable law

1. The contract shall be governed by the terms of the contract, the rules, regulations and procedures of the Authority, Part XI and other rules of international law not incompatible with this Convention.

2. Any final decision rendered by a court or tribunal having jurisdiction under this Convention relating to the rights and obligations of the Authority and of the contractor shall be enforceable in the territory of each State Party.

3. No State Party may impose conditions on a contractor that are inconsistent with Part XI. However, the application by a State Party to contractors sponsored by it, or to ships flying its flag, of environmental or other laws and regulations more stringent than those in the rules, regulations and procedures of the Authority adopted pursuant to article 17, paragraph 2(f), of this Annex shall not be deemed inconsistent with Part XI.

Article 22
Responsibility

The contractor shall have responsibility or liability for any damage arising out of wrongful acts in the conduct of its operations, account being taken of contributory acts or omissions by the Authority. Similarly, the Authority shall have responsibility or liability for any damage arising out of wrongful acts in the exercise of its powers and functions, including violations under article 168, paragraph 2, account being taken of contributory acts or omissions by the contractor. Liability in every case shall be for the actual amount of damage.

ANNEX IV. STATUTE OF THE ENTERPRISE

Article 1
Purposes

1. The Enterprise is the organ of the Authority which shall carry out activities in the Area directly, pursuant to article 153, paragraph 2 (a), as well as the transporting, processing and marketing of minerals recovered from the Area.

2. In carrying out its purposes and in the exercise of its functions, the Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority.

3. In developing the resources of the Area pursuant to paragraph 1, the Enterprise shall, subject to this Convention, operate in accordance with sound commercial principles.

Article 2
Relationship to the Authority

1. Pursuant to article 170, the Enterprise shall act in accordance with the general policies of the Assembly and the directives of the Council.

2. Subject to paragraph 1, the Enterprise shall enjoy autonomy in the conduct of its operations.

3. Nothing in this Convention shall make the Enterprise liable for the acts or obligations of the Authority, or make the Authority liable for the acts or obligations of the Enterprise.

Article 3
Limitation of liability

Without prejudice to article 11, paragraph 3, of this Annex, no member of the Authority shall be liable by reason only of its membership for the acts or obligations of the Enterprise.

Article 4
Structure

The Enterprise shall have a Governing Board, a Director-General and the staff necessary for the exercise of its functions.

Article 5
Governing Board

1. The Governing Board shall be composed of 15 members elected by the Assembly in accordance with article 160, paragraph 2(c). In the election of the members of the Board, due regard shall be paid to the principle of equitable geographical distribution. In submitting nominations of candidates for election to the Board, members of the Authority shall bear in mind the need to nominate candidates of the highest standard of competence, with qualifications in relevant fields, so as to ensure the viability and success of the Enterprise.

2. Members of the Board shall be elected for four years and may be re-elected; and due regard shall be paid to the principle of rotation of membership.

3. Members of the Board shall continue in office until their successors are elected. If the office of a member of the Board becomes vacant, the Assembly shall, in accordance with article 160, paragraph 2(c), elect a new member for the remainder of his predecessor's term.

4. Members of the Board shall act in their personal capacity. In the performance of their duties they shall not seek or receive instructions from any government or from any other source. Each member of the Authority shall respect the independent character of the members of the Board and shall refrain from all attempts to influence any of them in the discharge of their duties.

5. Each member of the Board shall receive remuneration to be paid out of the funds of the Enterprise. The amount of remuneration shall be fixed by the Assembly, upon the recommendation of the Council.

6. The Board shall normally function at the principal office of the Enterprise and shall meet as often as the business of the Enterprise may require.

7. Two thirds of the members of the Board shall constitute a quorum.

8. Each member of the Board shall have one vote. All matters before the Board shall be decided by a majority of its members. If a member has a conflict of interest on a matter before the Board he shall refrain from voting on that matter.

9. Any member of the Authority may ask the Board for information in respect of its operations which particularly affect that member. The Board shall endeavour to provide such information.

Article 6
Powers and functions of the Governing Board

The Governing Board shall direct the operations of the Enterprise. Subject to this Convention, the Governing Board shall exercise the powers necessary to fulfil the purposes of the Enterprise, including powers:

(a) to elect a Chairman from among its members;

(b) to adopt its rules of procedure;
(c) to draw up and submit formal written plans of work to the Council in accordance with article 153, paragraph 3, and article 162, paragraph 2(j);
(d) to develop plans of work and programmes for carrying out the activities specified in article 170;
(e) to prepare and submit to the Council applications for production authorizations in accordance with article 151, paragraphs 2 to 7;
(f) to authorize negotiations concerning the acquisition of technology, including those provided for in Annex III, article 5, paragraph 3 (a), (c) and (d), and to approve the results of those negotiations;
(g) to establish terms and conditions, and to authorize negotiations, concerning joint ventures and other forms of joint arrangements referred to in Annex III, articles 9 and 11, and to approve the results of such negotiations;
(h) to recommend to the Assembly what portion of the net income of the Enterprise should be retained as its reserves in accordance with article 160, paragraph 2(f), and article 10 of this Annex;
(i) to approve the annual budget of the Enterprise;
(j) to authorize the procurement of goods and services in accordance with article 12, paragraph 3, of this Annex;
(k) to submit an annual report to the Council in accordance with article 9 of this Annex;
(l) to submit to the Council for the approval of the Assembly draft rules in respect of the organization, management, appointment and dismissal of the staff of the Enterprise and to adopt regulations to give effect to such rules;
(m) to borrow funds and to furnish such collateral or other security as it may determine in accordance with article 11, paragraph 2, of this Annex;
(n) to enter into any legal proceedings, agreements and transactions and to take any other actions in accordance with article 13 of this Annex;
(o) to delegate, subject to the approval of the Council, any non-discretionary powers to the Director-General and to its committees.

Article 7
Director-General and staff of the Enterprise

1. The Assembly shall, upon the recommendation of the Council and the nomination of the Governing Board, elect the Director-General of the Enterprise who shall not be a member of the Board. The Director-General shall hold office for a fixed term, not exceeding five years, and may be re-elected for further terms.

2. The Director-General shall be the legal representative and chief executive of the Enterprise and shall be directly responsible to the Board for the conduct of the operations of the Enterprise. He shall be responsible for the organization, management, appointment and dismissal of the staff of the Enterprise in accordance with the rules and regulations referred to in article 6, subparagraph (l), of this Annex. He shall participate, without the right to vote, in the meetings of the Board and may participate, without the right to vote, in the meetings of the Assembly and the Council when these organs are dealing with matters concerning the Enterprise.

3. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency and of technical competence.

Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on an equitable geographical basis.

4. In the performance of their duties the Director-General and the staff shall not seek or receive instructions from any government or from any other source external to the Enterprise. They shall refrain from any action which might reflect on their position as international officials of the Enterprise responsible only to the Enterprise. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to seek to influence them in the discharge of their responsibilities.

5. The responsibilities set forth in article 168, paragraph 2, are equally applicable to the staff of the Enterprise.

Article 8
Location

The Enterprise shall have its principal office at the seat of the Authority. The Enterprise may establish other offices and facilities in the territory of any State Party with the consent of that State Party.

Article 9
Reports and financial statements

1. The Enterprise shall, not later than three months after the end of each financial year, submit to the Council for its consideration an annual report containing an audited statement of its accounts and shall transmit to the Council at appropriate intervals a summary statement of its financial position and a profit and loss statement showing the results of its operations.

2. The Enterprise shall publish its annual report and such other reports as it finds appropriate.

3. All reports and financial statements referred to in this article shall be distributed to the members of the Authority.

Article 10
Allocation of net income

1. Subject to paragraph 3, the Enterprise shall make payments to the Authority under Annex III, article 13, or their equivalent.

2. The Assembly shall, upon the recommendation of the Governing Board, determine what portion of the net income of the Enterprise shall be retained as reserves of the Enterprise. The remainder shall be transferred to the Authority.

3. During an initial period required for the Enterprise to become self-supporting, which shall not exceed 10 years from the commencement of commercial production by it, the Assembly shall exempt the Enterprise from the payments referred to in paragraph 1, and shall leave all of the net income of the Enterprise in its reserves.

Article 11
Finances

1. The funds of the Enterprise shall include:

(a) amounts received from the Authority in accordance with article 173, paragraph 2(b);

(b) voluntary contributions made by States Parties for the purpose of financing activities of the Enterprise;

(c) amounts borrowed by the Enterprise in accordance with paragraphs 2 and 3;

(d) income of the Enterprise from its operations;

(e) other funds made available to the Enterprise to enable it to commence operations as soon as possible and to carry out its functions.

2. (a) The Enterprise shall have the power to borrow funds and to furnish such collateral or other security as it may determine. Before making a public sale of its obligations in the financial markets or currency of a State Party, the Enterprise shall obtain the approval of that State Party. The total amount of borrowings shall be approved by the Council upon the recommendation of the Governing Board.

(b) States Parties shall make every reasonable effort to support applications by the Enterprise for loans on capital markets and from international financial institutions.

3. (a) The Enterprise shall be provided with the funds necessary to explore and exploit one mine site, and to transport, process and market the minerals recovered therefrom and the nickel, copper, cobalt and manganese obtained, and to meet its initial administrative expenses. The amount of the said funds, and the criteria and factors for its adjustment, shall be included by the Preparatory Commission in the draft rules, regulations and procedures of the Authority.

(b) All States Parties shall make available to the Enterprise an amount equivalent to one half of the funds referred to in subparagraph (a) by way of long-term interest-free loans in accordance with the scale of assessments for the United Nations regular budget in force at the time when the assessments are made, adjusted to take into account the States which are not members of the United Nations. Debts incurred by the Enterprise in raising the other half of the funds shall be guaranteed by all States Parties in accordance with the same scale.

(c) If the sum of the financial contributions of States Parties is less than the funds to be provided to the Enterprise under subparagraph (a), the Assembly shall, at its first session, consider the extent of the shortfall and adopt by consensus measures for dealing with this shortfall, taking into account the obligation of States Parties under subparagraphs (a) and (b) and any recommendations of the Preparatory Commission.

(d) (i) Each State Party shall, within 60 days after the entry into force of this Convention, or within 30 days after the deposit of its instrument of ratification or accession, whichever is later, deposit with the Enterprise irrevocable, non-negotiable, non-interest-bearing promissory notes in the amount of the share of such State Party of interest-free loans pursuant to subparagraph (b).

(ii) The Board shall prepare, at the earliest practicable date after this Convention enters into force, and thereafter at annual or other appropriate intervals, a schedule of the magnitude and timing of its requirements for the funding of its administrative expenses and for activities carried out by the Enterprise in accordance with article 170 and article 12 of this Annex.

(iii) The States Parties shall, thereupon, be notified by the Enterprise, through the Authority, of their respective shares of the funds in accordance with subparagraph (b), required for such expenses. The Enterprise shall encash such amounts of the promissory notes as may be required to meet the expenditure referred to in the schedule with respect to interest-free loans.

(iv) States Parties shall, upon receipt of the notification, make available their respective shares of debt guarantees for the Enterprise in accordance with subparagraph (b).

(c) (i) If the Enterprise so requests, State Parties may provide debt guarantees in addition to those provided in accordance with the scale referred to in subparagraph (b).

(ii) In lieu of debt guarantees, a State Party may make a voluntary contribution to the Enterprise in an amount equivalent to that portion of the debts which it would otherwise be liable to guarantee.

(f) Repayment of the interest-bearing loans shall have priority over the repayment of the interest-free loans. Repayment of interest-free loans shall be in accordance with a schedule adopted by the Assembly, upon the recommendation of the Council and the advice of the Board. In the exercise of this function the Board shall be guided by the relevant provisions of the rules, regulations and procedures of the Authority, which shall take into account the paramount importance of ensuring the effective functioning of the Enterprise and, in particular, ensuring its financial independence.

(g) Funds made available to the Enterprise shall be in freely usable currencies or currencies which are freely available and effectively usable in the major foreign exchange markets. These currencies shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing international monetary practice. Except as provided in paragraph 2, no State Party shall maintain or impose restrictions on the holding, use or exchange by the Enterprise of these funds.

(h) "Debt guarantee" means a promise of a State Party to creditors of the Enterprise to pay, *pro rata* in accordance with the appropriate scale, the financial obligations of the Enterprise covered by the guarantee following notice by the creditors to the State Party of a default by the Enterprise. Procedures for the payment of those obligations shall be in conformity with the rules, regulations and procedures of the Authority.

4. The funds, assets and expenses of the Enterprise shall be kept separate from those of the Authority. This article shall not prevent the Enterprise from making arrangements with the Authority regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid by either on behalf of the other.

5. The records, books and accounts of the Enterprise, including its annual financial statements, shall be audited annually by an independent auditor appointed by the Council.

Article 12
Operations

1. The Enterprise shall propose to the Council projects for carrying out activities in accordance with article 170. Such proposals shall include a formal written plan of work for activities in the Area in accordance with article 153, paragraph 3, and all such other information and data as may be required from time to time for its appraisal by the Legal and Technical Commission and approval by the Council.

2. Upon approval by the Council, the Enterprise shall execute the project on the basis of the formal written plan of work referred to in paragraph 1.

3. (a) If the Enterprise does not possess the goods and services required for its operations it may procure them. For that purpose, it shall issue

invitations to tender and award contracts to bidders offering the best combination of quality, price and delivery time.

(b) If there is more than one bid offering such a combination, the contract shall be awarded in accordance with:

(i) the principle of non-discrimination on the basis of political or other considerations not relevant to the carrying out of operations with due diligence and efficiency; and

(ii) guidelines approved by the Council with regard to the preferences to be accorded to goods and services originating in developing States, including the land-locked and geographically disadvantaged among them.

(c) The Governing Board may adopt rules determining the special circumstances in which the requirement of invitations to bid may, in the best interests of the Enterprise, be dispensed with.

4. The Enterprise shall have title to all minerals and processed substances produced by it.

5. The Enterprise shall sell its products on a non-discriminatory basis. It shall not give non-commercial discounts.

6. Without prejudice to any general or special power conferred on the Enterprise under any other provision of this Convention, the Enterprise shall exercise such powers incidental to its business as shall be necessary.

7. The Enterprise shall not interfere in the political affairs of any State Party; nor shall it be influenced in its decisions by the political character of the State Party concerned. Only commercial considerations shall be relevant to its decisions, and these considerations shall be weighed impartially in order to carry out the purposes specified in article 1 of this Annex.

Article 13
Legal status, privileges and immunities

1. To enable the Enterprise to exercise its functions, the status, privileges and immunities set forth in this article shall be accorded to the Enterprise in the territories of States Parties. To give effect to this principle the Enterprise and States Parties may, where necessary, enter into special agreements.

2. The Enterprise shall have such legal capacity as is necessary for the exercise of its functions and the fulfilment of its purposes and, in particular, the capacity:

(a) to enter into contracts, joint arrangements or other arrangements, including agreements with States and international organizations;

(b) to acquire, lease, hold and dispose of immovable and movable property;

(c) to be a party to legal proceedings.

3. (a) Actions may be brought against the Enterprise only in a court of competent jurisdiction in the territory of a State Party in which the Enterprise:

(i) has an office or facility;

(ii) has appointed an agent for the purpose of accepting service or notice of process;

(iii) has entered into a contract for goods or services;

(iv) has issued securities; or

(v) is otherwise engaged in commercial activity.

(b) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from all forms of seizure, attach-

ment or execution before the delivery of final judgment against the Enterprise.

4. (a) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

(b) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be free from discriminatory restrictions, regulations, controls and moratoria of any nature.

(c) The Enterprise and its employees shall respect local laws and regulations in any State or territory in which the Enterprise or its employees may do business or otherwise act.

(d) States Parties shall ensure that the Enterprise enjoys all rights, privileges and immunities accorded by them to entities conducting commercial activities in their territories. These rights, privileges and immunities shall be accorded to the Enterprise on no less favourable a basis than that on which they are accorded to entities engaged in similar commercial activities. If special privileges are provided by States Parties for developing States or their commercial entities, the Enterprise shall enjoy those privileges on a similarly preferential basis.

(e) States Parties may provide special incentives, rights, privileges and immunities to the Enterprise without the obligation to provide such incentives, rights, privileges and immunities to other commercial entities.

5. The Enterprise shall negotiate with the host countries in which its offices and facilities are located for exemption from direct and indirect taxation.

6. Each State Party shall take such action as is necessary for giving effect in terms of its own law to the principles set forth in this Annex and shall inform the Enterprise of the specific action which it has taken.

7. The Enterprise may waive any of the privileges and immunities conferred under this article or in the special agreements referred to in paragraph 1 to such extent and upon such conditions as it may determine.

ANNEX V. CONCILIATION

SECTION 1. CONCILIATION PROCEDURE PURSUANT TO SECTION 1 OF PART XV

Article 1
Institution of proceedings

If the parties to a dispute have agreed, in accordance with article 284, to submit it to conciliation under this section, any such party may institute the proceedings by written notification addressed to the other party or parties to the dispute.

Article 2
List of conciliators

A list of conciliators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four conciliators, each of whom shall be a person enjoying the highest reputa-

tion for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary. The name of a conciliator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such conciliator shall continue to serve on any conciliation commission to which that conciliator has been appointed until the completion of the proceedings before that commission.

Article 3
Constitution of conciliation commission

The conciliation commission shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the conciliation commission shall consist of five members.

(b) The party instituting the proceedings shall appoint two conciliators to be chosen preferably from the list referred to in article 2 of this Annex, one of whom may be its national, unless the parties otherwise agree. Such appointments shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall appoint two conciliators in the manner set forth in subparagraph (b) within 21 days of receipt of the notification referred to in article 1 of this Annex. If the appointments are not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General of the United Nations to make the appointments in accordance with subparagraph (e).

(d) Within 30 days after all four conciliators have been appointed, they shall appoint a fifth conciliator chosen from the list referred to in article 2 of this Annex, who shall be chairman. If the appointment is not made within that period, either party may, within one week of the expiration of that period, request the Secretary-General of the United Nations to make the appointment in accordance with subparagraph (e).

(e) Within 30 days of the receipt of a request under subparagraph (c) or (d), the Secretary-General of the United Nations shall make the necessary appointments from the list referred to in article 2 of this Annex in consultation with the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Two or more parties which determine by agreement that they are in the same interest shall appoint two conciliators jointly. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint conciliators separately.

(h) In disputes involving more than two parties having separate interests, or where there is disagreement as to whether they are of the same interest, the parties shall apply subparagraphs (a) to (f) in so far as possible.

Article 4
Procedure

The conciliation commission shall, unless the parties otherwise agree, determine its own procedure. The commission may, with the consent of the parties

to the dispute, invite any State Party to submit to it its views orally or in writing. Decisions of the commission regarding procedural matters, the report and recommendations shall be made by a majority vote of its members.

Article 5
Amicable settlement

The commission may draw the attention of the parties to any measures which might facilitate an amicable settlement of the dispute.

Article 6
Functions of the commission

The commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement.

Article 7
Report

1. The commission shall report within 12 months of its constitution. Its report shall record any agreements reached and, failing agreement, its conclusions on all questions of fact or law relevant to the matter in dispute and such recommendations as the commission may deem appropriate for an amicable settlement. The report shall be deposited with the Secretary-General of the United Nations and shall immediately be transmitted by him to the parties to the dispute.

2. The report of the commission, including its conclusions or recommendations, shall not be binding upon the parties.

Article 8
Termination

The conciliation proceedings are terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by written notification addressed to the Secretary-General of the United Nations, or when a period of three months has expired from the date of transmission of the report to the parties.

Article 9
Fees and expenses

The fees and expenses of the commission shall be borne by the parties to the dispute.

Article 10
Right of parties to modify procedure

The parties to the dispute may by agreement applicable solely to that dispute modify any provision of this Annex.

SECTION 2. COMPULSORY SUBMISSION TO CONCILIATION PROCEDURE PURSUANT TO SECTION 3 OF PART XV

Article 11
Institution of proceedings

1. Any party to a dispute which, in accordance with Part XV, section 3, may be submitted to conciliation under this section, may institute the proceedings by written notification addressed to the other party or parties to the dispute.

2. Any party to the dispute, notified under paragraph 1, shall be obliged to submit to such proceedings.

Article 12
Failure to reply or to submit to conciliation

The failure of a party or parties to the dispute to reply to notification of institution of proceedings or to submit to such proceedings shall not constitute a bar to the proceedings.

Article 13
Competence

A disagreement as to whether a conciliation commission acting under this section has competence shall be decided by the commission.

Article 14
Application of section 1

Articles 2 to 10 of section 1 of this Annex apply subject to this section.

ANNEX VI. STATUTE OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Article 1
General provisions

1. The International Tribunal for the Law of the Sea is constituted and shall function in accordance with the provisions of this Convention and this Statute.

2. The seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.

3. The Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable.

4. A reference of a dispute to the Tribunal shall be governed by the provisions of Parts XI and XV.

SECTION 1. ORGANIZATION OF THE TRIBUNAL

Article 2
Composition

1. The Tribunal shall be composed of a body of 21 independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea.

2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

Article 3
Membership

1. No two members of the Tribunal may be nationals of the same State. A person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

2. There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations.

Article 4
Nominations and elections

1. Each State Party may nominate not more than two persons having the qualifications prescribed in article 2 of this Annex. The members of the Tribunal shall be elected from the list of persons thus nominated.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the States Parties to submit their nominations for members of the Tribunal within two months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties before the seventh day of the last month before the date of each election.

3. The first election shall be held within six months of the date of entry into force of this Convention.

4. The members of the Tribunal shall be elected by secret ballot. Elections shall be held at a meeting of the States Parties convened by the Secretary-General of the United Nations in the case of the first election and by a procedure agreed to by the States Parties in the case of subsequent elections. Two thirds of the States Parties shall constitute a quorum at that meeting. The persons elected to the Tribunal shall be those nominees who obtain the largest number of votes and a two-thirds majority of the States Parties present and voting, provided that such majority includes a majority of the States Parties.

Article 5
Term of office

1. The members of the Tribunal shall be elected for nine years and may be re-elected; provided, however, that of the members elected at the first election, the terms of seven members shall expire at the end of three years and the terms of seven more members shall expire at the end of six years.

2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election.

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any proceedings which they may have begun before the date of their replacement.

4. In the case of the resignation of a member of the Tribunal, the letter of resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of that letter.

Article 6
Vacancies

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in article 4 of this Annex, and the date of the election shall be fixed by the President of the Tribunal after consultation with the States Parties.

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 7
Incompatible activities

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration for or exploitation of the resources of the sea or the sea-bed or other commercial use of the sea or the sea-bed.

2. No member of the Tribunal may act as agent, counsel or advocate in any case.

3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

Article 8
Conditions relating to participation of members in a particular case

1. No member of the Tribunal may participate in the decision of any case in which he has previously taken part as agent, counsel or advocate for one of the parties, or as a member of a national or international court or tribunal, or in any other capacity.

2. If, for some special reason, a member of the Tribunal considers that he should not take part in the decision of a particular case, he shall so inform the President of the Tribunal.

3. If the President considers that for some special reason one of the members of the Tribunal should not sit in a particular case, he shall give him notice accordingly.

4. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

Article 9
Consequence of ceasing to fulfil required conditions

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the required conditions, the President of the Tribunal shall declare the seat vacant.

Article 10
Privileges and immunities

The members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

Article 11
Solemn declaration by members

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

Article 12
President, Vice-President and Registrar

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.
2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.
3. The President and the Registrar shall reside at the seat of the Tribunal.

Article 13
Quorum

1. All available members of the Tribunal shall sit; a quorum of 11 elected members shall be required to constitute the Tribunal.
2. Subject to article 17 of this Annex, the Tribunal shall determine which members are available to constitute the Tribunal for the consideration of a particular dispute, having regard to the effective functioning of the chambers as provided for in articles 14 and 15 of this Annex.
3. All disputes and applications submitted to the Tribunal shall be heard and determined by the Tribunal, unless article 14 of this Annex applies, or the parties request that it shall be dealt with in accordance with article 15 of this Annex.

Article 14
Sea-Bed Disputes Chamber

A Sea-Bed Disputes Chamber shall be established in accordance with the provisions of section 4 of this Annex. Its jurisdiction, powers and functions shall be as provided for in Part XI, section 5.

Article 15
Special chambers

1. The Tribunal may form such chambers, composed of three or more of its elected members, as it considers necessary for dealing with particular categories of disputes.
2. The Tribunal shall form a chamber for dealing with a particular dispute submitted to it if the parties so request. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.
3. With a view to the speedy dispatch of business, the Tribunal shall form annually a chamber composed of five of its elected members which may hear and determine disputes by summary procedure. Two alternative members shall be selected for the purpose of replacing members who are unable to participate in a particular proceeding.

4. Disputes shall be heard and determined by the chambers provided for in this article if the parties so request.

5. A judgment given by any of the chambers provided for in this article and in article 14 of this Annex shall be considered as rendered by the Tribunal.

Article 16
Rules of the Tribunal

The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.

Article 17
Nationality of members

1. Members of the Tribunal of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.

2. If the Tribunal, when hearing a dispute, includes upon the bench a member of the nationality of one of the parties, any other party may choose a person to participate as a member of the Tribunal.

3. If the Tribunal, when hearing a dispute, does not include upon the bench a member of the nationality of the parties, each of those parties may choose a person to participate as a member of the Tribunal.

4. This article applies to the chambers referred to in articles 14 and 15 of this Annex. In such cases, the President, in consultation with the parties, shall request specified members of the Tribunal forming the chamber, as many as necessary, to give place to the members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the members specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be considered as one party only. Any doubt on this point shall be settled by the decision of the Tribunal.

6. Members chosen in accordance with paragraphs 2, 3 and 4 shall fulfil the conditions required by articles 2, 8 and 11 of this Annex. They shall participate in the decision on terms of complete equality with their colleagues.

Article 18
Remuneration of members

1. Each elected member of the Tribunal shall receive an annual allowance and, for each day on which he exercises his functions, a special allowance, provided that in any year the total sum payable to any member as special allowance shall not exceed the amount of the annual allowance.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for each day on which he acts as President.

4. The members chosen under article 17 of this Annex, other than elected members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. The salaries, allowances and compensation shall be determined from time to time at meetings of the States Parties, taking into account the work load of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be determined at meetings of the States Parties, on the proposal of the Tribunal.

7. Regulations adopted at meetings of the States Parties shall determine the conditions under which retirement pensions may be given to members of the

Tribunal and to the Registrar, and the conditions under which members of the Tribunal and Registrar shall have their travelling expenses refunded.

8. The salaries, allowances, and compensation shall be free of all taxation.

Article 19
Expenses of the Tribunal

1. The expenses of the Tribunal shall be borne by the States Parties and by the Authority on such terms and in such a manner as shall be decided at meetings of the States Parties.

2. When an entity other than a State Party or the Authority is a party to a case submitted to it, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal.

SECTION 2. COMPETENCE

Article 20
Access to the Tribunal

1. The Tribunal shall be open to States Parties.

2. The Tribunal shall be open to entities other than States Parties in any case expressly provided for in Part XI or in any case submitted pursuant to any other agreement conferring jurisdiction on the Tribunal which is accepted by all the parties to that case.

Article 21
Jurisdiction

The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal.

Article 22
Reference of disputes subject to other agreements

If all the parties to a treaty or convention already in force and concerning the subject-matter covered by this Convention so agree, any disputes concerning the interpretation or application of such treaty or convention may, in accordance with such agreement, be submitted to the Tribunal.

Article 23
Applicable law

The Tribunal shall decide all disputes and applications in accordance with article 293.

SECTION 3. PROCEDURE

Article 24
Institution of proceedings

1. Disputes are submitted to the Tribunal, as the case may be, either by notification of a special agreement or by written application, addressed to the

Registrar. In either case, the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith notify the special agreement or the application to all concerned.

3. The Registrar shall also notify all States Parties.

Article 25
Provisional measures

1. In accordance with article 290, the Tribunal and its Sea-Bed Disputes Chamber shall have the power to prescribe provisional measures.

2. If the Tribunal is not in session or a sufficient number of members is not available to constitute a quorum, the provisional measures shall be prescribed by the chamber of summary procedure formed under article 15, paragraph 3, of this Annex. Notwithstanding article 15, paragraph 4, of this Annex, such provisional measures may be adopted at the request of any party to the dispute. They shall be subject to review and revision by the Tribunal.

Article 26
Hearing

1. The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President. If neither is able to preside, the senior judge present of the Tribunal shall preside.

2. The hearing shall be public, unless the Tribunal decides otherwise or unless the parties demand that the public be not admitted.

Article 27
Conduct of case

The Tribunal shall make orders for the conduct of the case, decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 28
Default

When one of the parties does not appear before the Tribunal or fails to defend its case, the other party may request the Tribunal to continue the proceedings and make its decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its decision, the Tribunal must satisfy itself not only that it has jurisdiction over the dispute, but also that the claim is well founded in fact and law.

Article 29
Majority for decision

1. All questions shall be decided by a majority of the members of the Tribunal who are present.

2. In the event of an equality of votes, the President or the member of the Tribunal who acts in his place shall have a casting vote.

Article 30
Judgment

1. The judgment shall state the reasons on which it is based.

2. It shall contain the names of the members of the Tribunal who have taken part in the decision.

3. If the judgment does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.

4. The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the parties to the dispute.

Article 31
Request to intervene

1. Should a State Party consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit a request to the Tribunal to be permitted to intervene.

2. It shall be for the Tribunal to decide upon this request.

3. If a request to intervene is granted, the decision of the Tribunal in respect of the dispute shall be binding upon the intervening State Party in so far as it relates to matters in respect of which that State Party intervened.

Article 32
Right to intervene in cases of interpretation or application

1. Whenever the interpretation or application of this Convention is in question, the Registrar shall notify all States Parties forthwith.

2. Whenever pursuant to article 21 or 22 of this Annex the interpretation or application of an international agreement is in question, the Registrar shall notify all the parties to the agreement.

3. Every party referred to in paragraphs 1 and 2 has the right to intervene in the proceedings; if it uses this right, the interpretation given by the judgment will be equally binding upon it.

Article 33
Finality and binding force of decisions

1. The decision of the Tribunal is final and shall be complied with by all the parties to the dispute.

2. The decision shall have no binding force except between the parties in respect of that particular dispute.

3. In the event of dispute as to the meaning or scope of the decision, the Tribunal shall construe it upon the request of any party.

Article 34
Costs

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

SECTION 4. SEA-BED DISPUTES CHAMBER

Article 35
Composition

1. The Sea-Bed Disputes Chamber referred to in article 14 of this Annex shall be composed of 11 members, selected by a majority of the elected members of the Tribunal from among them.

2. In the selection of the members of the Chamber, the representation of the principal legal systems of the world and equitable geographical distribution shall be assured. The Assembly of the Authority may adopt recommendations of a general nature relating to such representation and distribution.

3. The members of the Chamber shall be selected every three years and may be selected for a second term.

4. The Chamber shall elect its President from among its members, who shall serve for the term for which the Chamber has been selected.

5. If any proceedings are still pending at the end of any three-year period for which the Chamber has been selected, the Chamber shall complete the proceedings in its original composition.

6. If a vacancy occurs in the Chamber, the Tribunal shall select a successor from among its elected members, who shall hold office for the remainder of his predecessor's term.

7. A quorum of seven of the members selected by the Tribunal shall be required to constitute the Chamber.

Article 36
Ad hoc chambers

1. The Sea-Bed Disputes Chamber shall form an *ad hoc* chamber, composed of three of its members, for dealing with a particular dispute submitted to it in accordance with article 188, paragraph 1(b). The composition of such a chamber shall be determined by the Sea-Bed Disputes Chamber with the approval of the parties.

2. If the parties do not agree on the composition of an *ad hoc* chamber, each party to the dispute shall appoint one member, and the third member shall be appointed by them in agreement. If they disagree, or if any party fails to make an appointment, the President of the Sea-Bed Disputes Chamber shall promptly make the appointment or appointments from among its members, after consultation with the parties.

3. Members of the *ad hoc* chamber must not be in the service of, or nationals of, any of the parties to the dispute.

Article 37
Access

The Chamber shall be open to the States Parties, the Authority and the other entities referred to in Part XI, section 5.

Article 38
Applicable law

In addition to the provisions of article 293, the Chamber shall apply:

(a) the rules, regulations and procedures of the Authority adopted in accordance with this Convention; and

(b) the terms of contracts concerning activities in the Area in matters relating to those contracts.

Article 39
Enforcement of decisions of the Chamber

The decisions of the Chamber shall be enforceable in the territories of the States Parties in the same manner as judgments or orders of the highest court of the State Party in whose territory the enforcement is sought.

Article 40
Applicability of other sections of this Annex

1. The other sections of this Annex which are not incompatible with this section apply to the Chamber.

2. In the exercise of its functions relating to advisory opinions, the Chamber shall be guided by the provisions of this Annex relating to procedure before the Tribunal to the extent to which it recognizes them to be applicable.

SECTION 5. AMENDMENTS

Article 41
Amendments

1. Amendments to this Annex, other than amendments to section 4, may be adopted only in accordance with article 313 or by consensus at a conference convened in accordance with this Convention.

2. Amendments to section 4 may be adopted only in accordance with article 314.

3. The Tribunal may propose such amendments to this Statute as it may consider necessary, by written communications to the States Parties for their consideration in conformity with paragraphs 1 and 2.

ANNEX VII. ARBITRATION

Article 1
Institution of proceedings

Subject to the provisions of Part XV, any party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2
List of arbitrators

1. A list of arbitrators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four arbitrators, each of whom shall be a person experienced in maritime affairs and enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list.

2. If at any time the arbitrators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary.

3. The name of an arbitrator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such arbitrator shall continue to serve on any arbitral tribunal to which that arbitrator has been appointed until the completion of the proceedings before that arbitral tribunal.

Article 3
Constitution of arbitral tribunal

For the purpose of proceedings under this Annex, the arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the arbitral tribunal shall consist of five members.

(b) The party instituting the proceedings shall appoint one member to be chosen preferably from the list referred to in article 2 of this Annex, who may be its national. The appointment shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint one member to be chosen preferably from the list, who may be its national. If the appointment is not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointment be made in accordance with subparagraph (e).

(d) The other three members shall be appointed by agreement between the parties. They shall be chosen preferably from the list and shall be nationals of third States unless the parties otherwise agree. The parties to the dispute shall appoint the President of the arbitral tribunal from among those three members. If, within 60 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of one or more of the members of the tribunal to be appointed by agreement, or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 60-day period.

(e) Unless the parties agree that any appointment under subparagraphs (c) and (d) be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments. If the President is unable to act under this subparagraph or is a national of one of the parties to the dispute, the appointment shall be made by the next senior member of the International Tribunal for the Law of the Sea who is available and is not a national of one of the parties. The appointments referred to in this subparagraph shall be made from the list referred to in article 2 of this Annex within a period of 30 days of the receipt of the request and in consultation with the parties. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Parties in the same interest shall appoint one member of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal. The number of members of the tribunal appointed separately by the parties shall always be smaller by one than the number of members of the tribunal to be appointed jointly by the parties.

(h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

Article 4
Functions of arbitral tribunal

An arbitral tribunal constituted under article 3 of this Annex shall function in accordance with this Annex and the other provisions of this Convention.

Article 5
Procedure

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case.

Article 6
Duties of parties to a dispute

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, in accordance with their law and using all means at their disposal, shall:

(a) provide it with all relevant documents, facilities and information; and

(b) enable it when necessary to call witnesses or experts and receive their evidence and to visit the localities to which the case relates.

Article 7
Expenses

Unless the arbitral tribunal decides otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

Article 8
Required majority for decisions

Decisions of the arbitral tribunal shall be taken by a majority vote of its members. The absence or abstention of less than half of the members shall not constitute a bar to the tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

Article 9
Default of appearance

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

Article 10
Award

The award of the arbitral tribunal shall be confined to the subject-matter of the dispute and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the award. Any member of the tribunal may attach a separate or dissenting opinion to the award.

Article 11
Finality of award

The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute.

Article 12
Interpretation or implementation of award

1. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the award may be submitted by either party for decision to the arbitral tribunal which made the award. For this purpose, any vacancy in the tribunal shall be filled in the manner provided for in the original appointments of the members of the tribunal.

2. Any such controversy may be submitted to another court or tribunal under article 287 by agreement of all the parties to the dispute.

Article 13
Application to entities other than States Parties

The provisions of this Annex shall apply *mutatis mutandis* to any dispute involving entities other than States Parties.

ANNEX VIII. SPECIAL ARBITRATION

Article 1
Institution of proceedings

Subject to Part XV, any party to a dispute concerning the interpretation or application of the articles of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may submit the dispute to the special arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2
Lists of experts

1. A list of experts shall be established and maintained in respect of each of the fields of (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping.

2. The lists of experts shall be drawn up and maintained, in the field of fisheries by the Food and Agriculture Organization of the United Nations, in the field of protection and preservation of the marine environment by the United Nations Environment Programme, in the field of marine scientific research by the Inter-Governmental Oceanographic Commission, in the field of navigation, including pollution from vessels and by dumping, by the International Maritime Organization, or in each case by the appropriate subsidiary body concerned to which such organization, programme or commission has delegated this function.

3. Every State Party shall be entitled to nominate two experts in each field whose competence in the legal, scientific or technical aspects of such field is established and generally recognized and who enjoy the highest reputation for fairness and integrity. The names of the persons so nominated in each field shall constitute the appropriate list.

4. If at any time the experts nominated by a State Party in the list so constituted shall be fewer than two, that State Party shall be entitled to make further nominations as necessary.

5. The name of an expert shall remain on the list until withdrawn by the State Party which made the nomination, provided that such expert shall continue to serve on any special arbitral tribunal to which that expert has been appointed until the completion of the proceedings before that special arbitral tribunal.

Article 3
Constitution of special arbitral tribunal

For the purpose of proceedings under this Annex, the special arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the special arbitral tribunal shall consist of five members.

(b) The party instituting the proceedings shall appoint two members to be chosen preferably from the appropriate list or lists referred to in article 2 of this Annex relating to the matters in dispute, one of whom may be its national. The appointments shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint two members to be chosen preferably from the appropriate list or lists relating to the matters in dispute, one of whom may be its national. If the appointments are not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointments be made in accordance with subparagraph (e).

(d) The parties to the dispute shall by agreement appoint the President of the special arbitral tribunal, chosen preferably from the appropriate list, who shall be a national of a third State, unless the parties otherwise agree. If, within 30 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of the President, the appointment shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 30-day period.

(e) Unless the parties agree that the appointment be made by a person or a third State chosen by the parties, the Secretary-General of the United Nations shall make the necessary appointments within 30 days of receipt of a request under subparagraphs (c) and (d). The appointments referred to in this subparagraph shall be made from the appropriate list or lists of experts referred to in article 2 of this Annex and in consultation with the parties to the dispute and the appropriate international organization. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Parties in the same interest shall appoint two members of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal.

(h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

Article 4
General provisions

Annex VII, articles 4 to 13, apply *mutatis mutandis* to the special arbitration proceedings in accordance with this Annex.

Article 5
Fact finding

1. The parties to a dispute concerning the interpretation or application of the provisions of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may at any time agree to request a special arbitral tribunal constituted in accordance with article 3 of this Annex to carry out an inquiry and establish the facts giving rise to the dispute.

2. Unless the parties otherwise agree, the findings of fact of the special arbitral tribunal acting in accordance with paragraph 1, shall be considered as conclusive as between the parties.

3. If all the parties to the dispute so request, the special arbitral tribunal may formulate recommendations which, without having the force of a decision, shall only constitute the basis for a review by the parties of the questions giving rise to the dispute.

4. Subject to paragraph 2, the special arbitral tribunal shall act in accordance with the provisions of this Annex, unless the parties otherwise agree.

ANNEX IX. PARTICIPATION BY INTERNATIONAL ORGANIZATIONS

Article 1
Use of terms

For the purposes of article 305 and of this Annex, "international organization" means an intergovernmental organization constituted by States to which its member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of those matters.

Article 2
Signature

An international organization may sign this Convention if a majority of its member States are signatories of this Convention. At the time of signature an international organization shall make a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States which are signatories, and the nature and extent of that competence.

Article 3
Formal confirmation and accession

1. An international organization may deposit its instrument of formal confirmation or of accession if a majority of its member States deposit or have deposited their instruments of ratification or accession.

2. The instruments deposited by the international organization shall contain the undertakings and declarations required by articles 4 and 5 of this Annex.

Article 4
Extent of participation and rights and obligations

1. The instrument of formal confirmation or of accession of an international organization shall contain an undertaking to accept the rights and obligations of States under this Convention in respect of matters relating to which competence has been transferred to it by its member States which are Parties to this Convention.

2. An international organization shall be a Party to this Convention to the extent that it has competence in accordance with the declarations, communications of information or notifications referred to in article 5 of this Annex.

3. Such an international organization shall exercise the rights and perform the obligations which its member States which are Parties would otherwise have under this Convention, on matters relating to which competence has been transferred to it by those member States. The member States of that international organization shall not exercise competence which they have transferred to it.

4. Participation of such an international organization shall in no case entail an increase of the representation to which its member States which are States Parties would otherwise be entitled, including rights in decision-making.

5. Participation of such an international organization shall in no case confer any rights under this Convention on member States of the organization which are not States Parties to this Convention.

6. In the event of a conflict between the obligations of an international organization under this Convention and its obligations under the agreement establishing the organization or any acts relating to it, the obligations under this Convention shall prevail.

Article 5
Declarations, notifications and communications

1. The instrument of formal confirmation or of accession of an international organization shall contain a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to the organization by its member States which are Parties to this Convention.

2. A member State of an international organization shall, at the time it ratifies or accedes to this Convention or at the time when the organization deposits its instrument of formal confirmation or of accession, whichever is later, make a declaration specifying the matters governed by this Convention in respect of which it has transferred competence to the organization.

3. States Parties which are member States of an international organization which is a Party to this Convention shall be presumed to have competence over all matters governed by this Convention in respect of which transfers of competence to the organization have not been specifically declared, notified or communicated by those States under this article.

4. The international organization and its member States which are States Parties shall promptly notify the depositary of this Convention of any changes to the distribution of competence, including new transfers of competence, specified in the declarations under paragraphs 1 and 2.

5. Any State Party may request an international organization and its member States which are States Parties to provide information as to which, as between the organization and its member States, has competence in respect of any specific question which has arisen. The organization and the member States concerned shall provide this information within a reasonable time. The international organization and the member States may also, on their own initiative, provide this information.

6. Declarations, notifications and communications of information under this article shall specify the nature and extent of the competence transferred.

Article 6
Responsibility and liability

1. Parties which have competence under article 5 of this Annex shall have responsibility for failure to comply with obligations or for any other violation of this Convention.

2. Any State Party may request an international organization or its member States which are States Parties for information as to who has responsibility in respect of any specific matter. The organization and the member States concerned shall provide this information. Failure to provide this information within a reasonable time or the provision of contradictory information shall result in joint and several liability.

Article 7
Settlement of disputes

1. At the time of deposit of its instrument of formal confirmation or of accession, or at any time thereafter, an international organization shall be free to choose, by means of a written declaration, one or more of the means for the settlement of disputes concerning the interpretation or application of this Convention, referred to in article 287, paragraph 1(a), (c) or (d).

2. Part XV applies *mutatis mutandis* to any dispute between Parties to this Convention, one or more of which are international organizations.

3. When an international organization and one or more of its member States are joint parties to a dispute, or parties in the same interest, the organization shall be deemed to have accepted the same procedures for the settlement of disputes as the member States; when, however, a member State has chosen only the International Court of Justice under article 287, the organization and the member State concerned shall be deemed to have accepted arbitration in accordance with Annex VII, unless the parties to the dispute otherwise agree.

Article 8
Applicability of Part XVII

Part XVII applies *mutatis mutandis* to an international organization, except in respect of the following:

(a) the instrument of formal confirmation or of accession of an international organization shall not be taken into account in the application of article 308, paragraph 1;

(b) (i) an international organization shall have exclusive capacity with respect to the application of articles 312 to 315, to the extent that it has

competence under article 5 of this Annex over the entire subject-matter of the amendment;

(ii) the instrument of formal confirmation or of accession of an international organization to an amendment, the entire subject-matter over which the international organization has competence under article 5 of this Annex, shall be considered to be the instrument of ratification or accession of each of the member States which are States Parties, for the purposes of applying article 316, paragraphs 1, 2 and 3;

(iii) the instrument of formal confirmation or of accession of the international organization shall not be taken into account in the application of article 316, paragraphs 1 and 2, with regard to all other amendments;

(c) (i) an international organization may not denounce this Convention in accordance with article 317 if any of its member States is a State Party and if it continues to fulfil the qualifications specified in article 1 of this Annex;

(ii) an international organization shall denounce this Convention when none of its member States is a State Party or if the international organization no longer fulfils the qualifications specified in article 1 of this Annex. Such denunciation shall take effect immediately.

FINAL ACT OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

INTRODUCTION

1. The General Assembly of the United Nations on 17 December 1970 adopted resolution 2749 (XXV) containing the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction and resolution 2750 C (XXV) on the same date, wherein it decided to convene, in 1973, a Conference on the Law of the Sea, which would deal with the establishment of an equitable international régime—including an international machinery—for the area and the resources of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, with a precise definition of that area and with a broad range of related issues including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, *inter alia*, the prevention of pollution) and scientific research.

2. Prior to the adoption of these resolutions, the General Assembly had considered the item introduced in 1967 on the initiative of the Government of Malta[1] and had subsequently adopted the following resolutions on the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind:

Resolution 2340 (XXII) on 18 December 1967,
Resolution 2467 (XXIII) on 21 December 1968, and
Resolution 2574 (XXIV) on 15 December 1969.

3. The General Assembly, by resolution 2340 (XXII), established an *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and, having considered its report,[2] established by resolution 2467 A (XXIII) the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. The General Assembly, by resolution 2750 C (XXV), enlarged that Committee and requested it to prepare draft treaty articles and a comprehensive list of items and matters for the Conference on the Law of the Sea. The Committee as thus constituted held six sessions, and a number of additional meetings, between 1971 and 1973 at United Nations Headquarters in New York and at the Office of the United Nations in Geneva. Having considered its report,[3] the General Assembly requested the Secretary-General by resolution 2574 A (XXIV) to ascertain the views of Member States on the desirability of convening, at an early date, a Conference on the Law of the Sea.

4. Subsequent to the adoption of resolutions 2749 (XXV) and 2750 (XXV), the General Assembly, having considered the relevant reports of the Committee,[4] adopted the following resolutions on the same question:

Resolution 2881 (XXVI) on 21 December 1971,
Resolution 3029 (XXVII) on 18 December 1972, and
Resolution 3067 (XXVIII) on 16 November 1973.

5. By resolution 3029 A (XXVII) the General Assembly requested the Secretary-General to convene the first and second sessions of the Third United Nations Conference on the Law of the Sea. The Secretary-General was authorized, in consultation with the Chairman of the Committee, to make such arrangements as might be necessary for the efficient organization and administration of the Conference and the Committee, and to provide the assistance that might be required in legal, economic, technical and scientific matters. The specialized agencies, the International Atomic Energy Agency and other intergovernmental organizations were invited to co-operate fully with the Secretary-General in the preparations for the Conference and to send observers to the Conference.[5] The Secretary-General was requested, subject to approval by the Conference, to invite interested non-governmental organizations having consultative status with the Economic and Social Council to send observers to the Conference.

6. By resolution 3067 (XXVIII) the General Assembly decided that the mandate of the Conference was the adoption of a Convention dealing with all matters relating to the Law of the Sea, taking into account the subject matter listed in paragraph 2 of General Assembly resolution 2750 C (XXV) and the list of subjects and issues relating to the Law of the Sea formally approved by the Committee, and bearing in mind that the problems of ocean space were closely interrelated and needed to be considered as a whole. By the same resolution, the General Assembly also decided to convene the first session of the Conference in New York from 3 to 14 December 1973 for the purpose of dealing with organizational matters, including the election of officers, the adoption of the agenda and rules of procedure of the Conference, the establishment of subsidiary organs and the allocation of work to these organs, and any other purpose within its mandate. The second session was to be held in Caracas, at the invitation of the Government of Venezuela, from 20 June to 29 August 1974 to deal with the substantive work of the Conference and, if necessary, any subsequent session, or sessions, were to be convened as might be decided upon by the Conference and approved by the Assembly.

I. SESSIONS

7. In accordance with that decision and subsequently either on the recommendation of the Conference as approved by the General Assembly, or in accordance with decisions of the Conferences, the sessions of the Third United Nations Conference on the Law of the Sea were held as follows:

- First session held at United Nations Headquarters in New York, 3 to 15 December 1973;
- Second session held at Parque Central, Caracas, 20 June to 29 August 1974;
- Third session held at the Office of the United Nations in Geneva, 17 March to 9 May 1975;[6]
- Fourth session held at United Nations Headquarters in New York, 15 March to 7 May 1976;[7]

- Fifth session held at United Nations Headquarters in New York, 2 August to 17 September 1976;[8]
- Sixth session held at United Nations Headquarters in New York, 23 May to 15 July 1977;[9]
- Seventh session held at the Office of the United Nations in Geneva, 28 March to 19 May 1978;[10]
- Resumed seventh session held at United Nations Headquarters in New York, 21 August to 15 September 1978;[11]
- Eighth session held at the Office of the United Nations in Geneva, 19 March to 27 April 1979;[12]
- Resumed eighth session held at United Nations Headquarters in New York, 19 July to 24 August 1979;[13]
- Ninth session held at United Nations Headquarters in New York, 3 March to 4 April 1980;[14]
- Resumed ninth session held at the Office of the United Nations in Geneva, 28 July to 29 August 1980;[15]
- Tenth session, held at United Nations Headquarters in New York, 9 March to 24 April 1981;[16]
- Resumed tenth session held at the Office of the United Nations in Geneva, 3 to 28 August 1981;[17]
- Eleventh session held at United Nations Headquarters in New York, 8 March to 30 April 1982;[18]
- Resumed eleventh session held at United Nations Headquarters in New York, 22 to 24 September 1982.[19, 19 *bis*]

II. PARTICIPATION IN THE CONFERENCE

8. Having regard to the desirability of achieving universality of participation in the Conference, the General Assembly decided by resolution 3067 (XXVIII) to request the Secretary-General to invite States Members of the United Nations or members of the specialized agencies or the International Atomic Energy Agency and States parties to the Statute of the International Court of Justice, as well as the following States, to participate in the Conference: the Republic of Guinea-Bissau and the Democratic Republic of Viet Nam.

Participating at the sessions of the Conference were the delegations of: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger,

Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.[20]

9. The Secretary-General was also requested by resolution 3067 (XXVIII) to invite interested inter-governmental and non-governmental organizations, as well as the United Nations Council for Namibia, to participate in the Conference as observers.

The specialized agencies and inter-governmental organizations participating as observers at the several sessions of the Conference are listed in the appendix hereto.

10. On the recommendation of the Conference, by resolution 3334 (XXIX), adopted on 17 December 1974, the General Assembly requested the Secretary-General to invite Papua New Guinea, the Cook Islands, the Netherlands Antilles, Niue, Suriname, the West Indies Associated States and the Trust Territory of the Pacific Islands to attend future sessions of the Conference as observers or, if any of them became independent, to attend as a participating State.

The States and Territories participating as observers at the several sessions of the Conference are also listed in the appendix hereto.

11. The Conference decided on 11 July 1974 to extend invitations to national liberation movements, recognized by the Organization of African Unity and the League of Arab States in their respective regions, to participate in its proceedings as observers.[21]

The national liberation movements participating as observers at the several sessions of the Conference are also listed in the appendix hereto.

12. Consequent upon General Assembly resolution 34/92, the Conference decided on 6 March 1980[22] that Namibia, represented by the United Nations Council for Namibia, should participate in the Conference in accordance with the relevant decisions of the General Assembly.

III. OFFICERS AND COMMITTEES

13. The Conference elected Hamilton Shirley Amerasinghe (Sri Lanka) as its President. Subsequently, at its seventh session, the Conference confirmed that he was, and continued to be the President of the Conference although he was no longer a member of his national delegation.[23] On the death of Hamilton Shirley Amerasinghe on 4 December 1980, the Conference paid tribute to his memory at a special commemorative meeting on 17 March 1981 at its tenth session (A/CONF.62/SR.144).[24]

14. The Secretary-General of the United Nations opened the tenth session as temporary President. The Conference elected Tommy T. B. Koh (Singapore) as President on 13 March 1981.[25]

15. The Conference decided that the Chairmen and Rapporteurs of the three Main Committees, the Chairman of the Drafting Committee, and the

Rapporteur-General of the Conference would be elected in a personal capacity and that the Vice-Presidents, the Vice-Chairmen of the Main Committees and the members of the Drafting Committee should be elected by country.[26]

16. The Conference elected as Vice-Presidents, the representatives of the following States: Algeria; Belgium, replaced by Ireland during alternate sessions (by agreement of the regional group concerned); Bolivia; Chile; China; Dominican Republic; Egypt; France; Iceland; Indonesia; Iran; Iraq; Kuwait; Liberia; Madagascar; Nepal; Nigeria; Norway; Pakistan; Peru; Poland; Singapore, replaced by Sri Lanka at the tenth session (by agreement of the regional group concerned); Trinidad and Tobago; Tunisia; Uganda; Union of Soviet Socialist Republics; United Kingdom of Great Britain and Northern Ireland; United States of America; Yugoslavia; Zaire and Zambia.

17. The following Committees were set up by the Conference: the General Committee; the three Main Committees; the Drafting Committee and the Credentials Committee. The assignment of subjects to the plenary and each of the Main Committees was set out in section III of document A/CONF.62/29.

The General Committee consisted of the President of the Conference as its Chairman, the Vice-Presidents, the officers of the Main Committees, and the Rapporteur-General. The Chairman of the Drafting Committee had the right to participate in the meeting of the General Committee without the right to vote.[27]

The Conference elected the following officers for the three Main Committees which were constituted by all States represented at the Conference:

First Committee	
Chairman	Paul Bamela Engo (United Republic of Cameroon)
Vice-Chairmen	The representatives of Brazil, the German Democratic Republic and Japan
Rapporteur	
First and second sessions	H. C. Mott (Australia)
Third to tenth sessions	John Bailey (Australia)
Eleventh session	Keith Brennan (Australia)
Second Committee	
Chairman	
First and second sessions	Andrés Aguilar (Venezuela)
Third session	Reynaldo Galindo Pohl (El Salvador) (by agreement of the regional group concerned)
Fourth to eleventh sessions	Andrés Aguilar (Venezuela)
Vice-Chairmen	The representatives of Czechoslovakia, Kenya and Turkey
Rapporteur	Satya Nandan (Fiji)
Third Committee	
Chairman	Alexander Yankov (Bulgaria)
Vice-Chairmen	The representatives of Colombia, Cyprus and the Federal Republic of Germany

Rapporteur

First and second sessions	Abdel Magied A. Hassan (Sudan)
Third session	Manyang d'Awol (Sudan)
Fourth and fifth sessions	Abdel Magied A. Hassan (Sudan)
Fifth to eleventh sessions	Manyang d'Awol (Sudan)

The Conference elected the following officer and members of the Drafting Committee:

Drafting Committee

Chairman	J. Alan Beesley (Canada)
Members	The representatives of: Afghanistan; Argentina; Bangladesh (alternating with Thailand every year); Ecuador; El Salvador (replaced by Venezuela for the duration of the third session by agreement of the regional group concerned); Ghana; India; Italy; Lesotho; Malaysia; Mauritania; Mauritius; Mexico; Netherlands (alternating with Austria every session); Philippines; Romania; Sierra Leone; Spain; Syrian Arab Republic; Union of Soviet Socialist Republics; United Republic of Tanzania and United States of America.

The Conference elected the following officers and members of the Credentials Committee:

Credentials Committee

Chairman	
First session	Heinrich Gleissner (Austria)
Second and third sessions	Franz Weidinger (Austria)
Fourth to eleventh sessions	Karl Wolf (Austria)
Members	The representatives of: Austria; Chad; China; Costa Rica; Hungary; Ireland; Ivory Coast; Japan and Uruguay.

Kenneth Rattray (Jamaica) was elected Rapporteur-General of the Conference.

18. The Secretary-General of the United Nations as Secretary-General of the Conference was represented by Constantin Stavropoulos, Under-Secretary-General, at the first and second sessions. Thereafter Bernardo Zuleta, Under-Secretary-General, represented the Secretary-General. David L. D. Hall was Executive Secretary of the Conference.

19. The General Assembly, by its resolution 3067 (XXVIII) convening the Conference, referred to it the reports and documents of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and the relevant documentation of the General Assembly. At the commencement of the Conference the following documentation was also before it:

(a) The provisional agenda of the first session of the Conference (A/CONF.62/1);

(b) The draft rules of procedure prepared by the Secretary-General (A/CONF.62/2 and Add.1-3), containing an appendix which embodied the "Gentleman's Agreement", approved by the General Assembly at its twenty-eighth session on 16 November 1973.

Subsequently, the Conference also had before it the following documentation:

(i) The proposals submitted by the delegations participating in the Conference, as shown in the *Official Records* of the Conference;

(ii) The reports and studies prepared by the Secretary-General;[28]

(iii) The informal negotiating texts and the draft Convention on the Law of the Sea and related draft resolutions and decision drawn up by the Conference as hereafter set out.

IV. DRAFTING COMMITTEE

20. The Drafting Committee commenced its work at the seventh session of the Conference with the informal examination of negotiating texts, for the purposes of refining drafts, harmonizing recurring words and expressions and achieving, through textual review, concordance of the text of the Convention in the six languages. The Committee was assisted in its informal work by six language groups comprising both members and non-members of the Drafting Committee, representing the six official languages of the Conference each group being chaired by a co-ordinator[29] and assisted by Secretariat linguistic experts. The co-ordinators, under the direction of the Chairman of the Drafting Committee, performed the major task of harmonizing the views of the language groups and of preparing proposals for the Drafting Committee, through meetings open to both members and non-members of the Drafting Committee. In addition to the meetings held during the regular sessions of the Conference, the Committee held inter-sessional meetings as follows:

- At United Nations Headquarters in New York, from 9 to 27 June 1980;
- At United Nations Headquarters in New York, from 12 January to 27 February 1981;
- At the Office of the United Nations in Geneva, from 29 June to 31 July 1981;
- At United Nations Headquarters in New York, from 18 January to 26 February 1982;
- At the Office of the United Nations in Geneva, from 12 July to 25 August 1982.

The Drafting Committee presented a first series of reports concerning the harmonization of recurring words and expressions.[30] The Committee presented a second series of reports containing recommendations arising out of the textual review of the Convention.[31]

V. RULES OF PROCEDURE AND CONDUCT OF NEGOTIATIONS

21. The Conference adopted its rules of procedure (A/CONF.62/30) at its second session.[32] The declaration incorporating the "Gentleman's Agreement" approved by the General Assembly,[33] made by the President and endorsed by

the Conference,[34] was appended to the rules of procedure. The declaration provided that:

> "Bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a Convention on the Law of the Sea which will secure the widest possible acceptance,
>
> "The Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted."

22. The rules of procedure were subsequently amended by the Conference on 12 July 1974,[35] on 17 March 1975[36] and on 6 March 1980.[37]

23. At its second session,[38] the Conference determined the competence of the three Main Committees by allocating to the plenary or the Committees the subjects and issues on the list prepared in accordance with General Assembly resolution 2750 C (XXV) (A/CONF.62/29). The Main Committees established informal working groups or other subsidiary bodies which assisted the Committees in their work.[39]

24. At the third session, at the request of the Conference, the Chairmen of the three Main Committees each prepared a single negotiating text covering the subjects entrusted to the respective Committee which together constituted the Informal Single Negotiating Text (A/CONF.62/WP.8, Parts I, II and III), the nature of which is described in the introductory note by the President. Subsequently, the President of the Conference, taking into consideration the allocation of subjects and issues to the plenary and the Main Committees submitted a single negotiating text on the subject of settlement of disputes (A/CONF.62/WP.9).

25. At the fourth session of the Conference, following a general debate in the plenary on the subject, as recorded in A/CONF.62/SR.58 to SR.65, at the request of the Conference[40] the President prepared a revised text on the settlement of disputes (A/CONF.62/WP.9/Rev.1) which constituted Part IV of the Informal Single Negotiating Text in document A/CONF.62/WP.8. At the same session, the Chairmen of the Main Committees each prepared a revised Single Negotiating Text (A/CONF.62/WP.8/Rev.1, Parts I to III) and the note by the President which is attached to the text describes its nature.

26. During the fifth session, at the request of the Conference,[41] the President prepared a revised single negotiating text on the settlement of disputes (A/CONF.62/WP.9/Rev.2), which constituted the fourth part of the Revised Single Negotiating Text (A/CONF.62/WP.8/Rev.1).

27. At its sixth session,[42] the Conference requested the President and the Chairmen of the Main Committees, working under the President's leadership as a team with which the Chairman of the Drafting Committee and the Rapporteur-General were associated,[43] which was subsequently referred to as "the Collegium",[44] to prepare an Informal Composite Negotiating Text (A/CONF.62/WP.10), covering the entire range of subjects and issues contained in Parts I to IV of the Revised Single Negotiating Text. The nature of the composite text so prepared was described in the President's memorandum (A/CONF.62/WP.10/Add.1).

28. At its seventh session, the Conference identified certain outstanding core issues and established seven negotiating groups (as recorded in A/CONF.62/62) for the purpose of resolving these issues.[45] Each group

comprised a nucleus of countries principally concerned with the outstanding core issue, but was open-ended.

The Chairmen of the Negotiating Groups were:

Negotiating Group on item 1	Francis X. Njenga (Kenya)
Negotiating Group on item 2	Tommy T. B. Koh (Singapore)
Negotiating Group on item 3	Paul Bamela Engo (United Republic of Cameroon), Chairman of the First Committee
Negotiating Group on item 4	Satya N. Nandan (Fiji)
Negotiating Group on item 5	Constantin A. Stavropoulos (Greece)
Negotiating Group on item 6	Andrés Aguilar (Venezuela), Chairman of the Second Committee
Negotiating Group on item 7	E. J. Manner (Finland)

The Chairmen of the Negotiating Groups were to report on the results of their negotiations to the Committee or the plenary functioning as a Committee, as appropriate, before they were presented to the plenary.

29. The negotiations carried out at the seventh session and resumed seventh session of the Conference were reported on by the President concerning the work of the plenary functioning as a Main Committee, and by the Chairmen of the Main Committees and the Negotiating Groups. These reports, together with the report of the Chairman of the Drafting Committee, were incorporated in documents A/CONF.62/RCNG.1 and 2.[46] The Conference also laid down criteria for any modifications or revisions of the Informal Composite Negotiating Text, which are set out in document A/CONF.62/62.

30. At the eighth session a group of Legal Experts was set up with Harry Wuensche (German Democratic Republic) as its Chairman.[47]

31. On the basis of the deliberations of the Conference (A/CONF.62/SR.111-SR.116) concerning the reports of the President, the Chairmen of the Main Committees, the Chairmen of the Negotiating Groups and the Chairman of the Group of Legal Experts on consultations conducted by them, a revision of the Informal Composite Negotiating Text (A/CONF.62/WP.10/Rev.1) was prepared by the Collegium referred to in paragraph 27. The nature of the text was described in the explanatory memorandum by the President attached to the text.

32. At the resumed eighth session a further Group of Legal Experts was set up with Jens Evensen (Norway) as its Chairman.[48]

33. The reports on the negotiations conducted at the resumed eighth session by the President, the Chairmen of the Main Committees, the Chairmen of the Negotiating Groups and the Chairmen of the two Groups of Legal Experts together with the report of the Chairman of the Drafting Committee were incorporated in a memorandum by the President (A/CONF.62/91).

34. At its ninth session, on the basis of the report of the President concerning consultations conducted in the plenary acting as a Main Committee (A/CONF.62/L.49/Add.1 and 2), the Conference considered the draft Preamble prepared by the President (A/CONF.62/L.49) for incorporation in the next revision of the Informal Composite Negotiating Text (A/CONF.62/WP.10/Rev.1). On the basis of the deliberations of the Conference (A/CONF.62/SR.125-SR.128) concerning the reports of the President, the Chairmen of the Main Committees, the Chairmen of the Negotiating Groups and the Chairmen of the Groups of Legal Experts on the consultations conducted by them, and the report of the Chairman of the Drafting Committee on its work, the

Collegium[49] undertook a second revision of the Informal Composite Negotiating Text presented as the Informal Composite Negotiating Text/Rev.2 (in document A/CONF.62/WP.10/Rev.2), the nature of which was described in the President's explanatory memorandum attached to it.

35. At its resumed ninth session, on the basis of the deliberations of the Conference (A/CONF.62/SR.134-SR.140) concerning the reports of the President and the Chairmen of the Main Committees on the consultations conducted by them, the Collegium prepared a further revision of the Informal Composite Negotiating Text. The revised text, titled "Draft Convention on the Law of the Sea (Informal Text)" (A/CONF.62/WP.10/Rev.3), was issued together with the explanatory memorandum of the President (A/CONF.62/WP.10/Rev.3/Add.1), which described the nature of the text.

36. The Conference also decided that the statement of understanding on an exceptional method of delimitation of the Continental Shelf applicable to certain specific geological and geomorphological conditions would be incorporated in an annex to the Final Act.[50]

37. The Conference decided that the tenth session was to determine the status to be given to the draft Convention (Informal Text).[51]

38. Following the deliberations of the Conference at its tenth and resumed tenth sessions (A/CONF.62/SR.142-SR.155), the Collegium prepared a revision of the draft Convention on the Law of the Sea (Informal Text). The Conference decided that the text as revised (A/CONF.62/L.78) was the official draft Convention of the Conference, subject only to the specific conditions recorded in document A/CONF.62/114. At the resumed tenth session, the Conference decided that the decisions taken in the informal plenary concerning the seats of the International Sea-Bed Authority (Jamaica) and the International Tribunal for the Law of the Sea (the Free and Hanseatic City of Hamburg in the Federal Republic of Germany) should be incorporated in the revision of the draft Convention; and that the introductory note to that revision should record the requirements agreed upon when the decision concerning the two seats was taken (A/CONF.62/L.78).

39. Following consideration by the plenary[52] of the final clauses and in particular the question of entry into force of the Convention, the question of establishing a Preparatory Commission for the International Sea-Bed Authority and the convening of the International Tribunal for the Law of the Sea was considered by the plenary at the ninth session. The President, on the basis of the deliberations of the informal plenary, prepared a draft resolution to be adopted by the Conference concerning interim arrangements, which was annexed to his report (A/CONF.62/L.55 and Corr.1). On the basis of the further consideration of the subject jointly by the plenary and the First Committee at the tenth, resumed tenth and eleventh sessions of the Conference, the President and the Chairman of the First Committee presented a draft resolution (A/CONF.62/C.1/L.30, annex I).

40. Following consideration at the eleventh session of the question of the treatment to be accorded to preparatory investments made before the Convention enters into force, provided that such investments are compatible with the Convention and would not defeat its object and purpose, the President and the Chairman of the First Committee presented a draft resolution contained in annex II to their report A/CONF.62/C.1/L.30. The question of participation in the Convention was considered by the plenary of the Conference during the eighth to eleventh sessions, and the President presented a report on the consultations at the eleventh session in document A/CONF.62/L.86.

41. The eleventh session had been declared as the final decision-making session of the Conference.[53] During that session, on the basis of the deliberations of the Conference (A/CONF.62/SR.157-SR.166) concerning the report of the President (A/CONF.62/L.86) and the reports of the Chairmen of the Main Committees (A/CONF.62/L.87, L.91 and L.92), on the negotiations conducted by them and the report of the Chairman of the Drafting Committee on its work (A/CONF.62/L.85 and L.89), the Collegium issued a memorandum (A/CONF.62/L.93 and Corr.1) containing changes to be incorporated in the Draft Convention on the Law of the Sea (A/CONF.62/L.78), and document A/CONF.62/L.94 setting out three draft resolutions and a draft decision of the Conference which were to be adopted at the same time as the draft Convention.

The Conference determined that all efforts at reaching general agreement had been exhausted.[54] Throughout the preceding eight years of its work the Conference had taken all decisions by consensus although it had exceptionally resorted to a vote only on procedural questions, on questions concerning the appointment of officials and on invitations to be extended to participants in the Conference as observers.

42. On the basis of the deliberations recorded in the records of the Conference (A/CONF.62/SR.167-SR.182), the Conference drew up:

THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

RESOLUTION I on the establishment of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea

RESOLUTION II governing Preparatory Investment in Pioneer Activities relating to Polymetallic Nodules

RESOLUTION III relating to territories whose people have not obtained either full independence or some other self-governing status recognized by the United Nations or territories under colonial domination

RESOLUTION IV relating to national liberation movements.

The foregoing Convention together with resolutions I to IV, forming an integral whole, was adopted on 30 April 1982, by a recorded vote taken at the request of one delegation.[55] The Convention together with resolution I to IV were adopted subject to drafting changes thereafter approved by the Conference[56] which were incorporated in the Convention and in resolutions I to IV, which are annexed to this Final Act (annex I). The Convention is subject to ratification and is opened for signature from 10 December 1982 until 9 December 1984 at the Ministry of Foreign Affairs of Jamaica and also from 1 July 1983 until 9 December 1984 at United Nations Headquarters. The same instrument is opened for accession in accordance with its provisions.

After 9 December 1984, the closing date for signature at United Nations Headquarters, the Convention will be deposited with the Secretary-General of the United Nations.

There are annexed to this Final Act:

The Statement of Understanding referred to in paragraph 36 above (annex II); and the following resolutions adopted by the Conference:

Resolution paying tribute to Simón Bolívar the Liberator (annex III);[57]

Resolution expressing gratitude to the President, the Government and officials of Venezuela (annex IV);[58]

Tribute to the Amphictyonic Congress of Panama (annex V);[59]

Resolution on Development of National Marine Science, Technology and Ocean Service Infrastructures (annex VI);[60, 60 *bis*]

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE AT MONTEGO BAY this tenth day of December, one thousand nine hundred and eighty-two in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. The original texts shall be deposited in the archives of the United Nations Secretariat.

The President of the Conference:

T.T. B. KOH

The Special Representative of the
Secretary-General to the Conference:

BERNARDO ZULETA

The Executive Secretary of the Conference:

DAVID HALL

Notes to the Final Act

[1] *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 92, document A/6695.

[2] *Ibid., Twenty-third Session, Annexes*, agenda item 26, document A/7230.

[3] *Ibid., Twenty-fourth Session, Supplement Nos. 22 and 22A* (A/7622 and Corr.1 and A/7622/Add.1).

[4] *Ibid., Twenty-sixth Session, Supplement No. 21* (A/8421); *ibid., Twenty-seventh Session, Supplement No. 21* (A/8721 and Corr.1); and *ibid., Twenth-eighth Session, Supplement No.21* (A/9021 and Corr.1-3), vols. I-VI.

[5] In addition it may be noted that the Conference was attended and assisted by observers from the United Nations Programmes and Conferences.

[6] General Assembly resolution 3334 (XXIX) of 17 December 1974.

[7] General Assembly resolution 3483 (XXX) of 12 December 1975.

[8] Decision taken at the 69th meeting of the plenary Conference on 7 May 1976 (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V, A/CONF.62/SR.69).

[9] General Assembly resolution 31/63 of 10 December 1976.

[10] General Assembly resolution 32/194 of 20 December 1977.

[11] Decision taken at the 106th meeting of the plenary on 19 May 1978 (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IX, A/CONF.62/SR.106).

[12] General Assembly resolution 33/17 of 10 November 1978.

[13] Decision taken at the 115th meeting of the plenary on 27 April 1979 (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XI, A/CONF.62/SR.115).

[14] General Assembly resolution 34/20 of 9 November 1979.

[15] *Ibid.*

[16] General Assembly resolution 35/116 of 10 December 1980, and decision taken at the 147th meeting of the plenary Conference on 20 April 1981 (A/CONF.62/SR.147).

[17] General Assembly resolution 35/452 of 11 May 1981.

[18] General Assembly resolution 36/79 of 9 December 1981.

[19] Decision taken at the 182nd meeting of the plenary Conference on 30 April 1982 (A/CONF.62/SR.182).

[19 bis] Final part of the eleventh session held at Montego Bay, Jamaica from 6 to 10 December 1982: decision taken at the 184th meeting of the plenary on 24 September 1982.

[20] The list of States participating at each session is recorded in the appropriate report of the Credentials Committee.

[21] Decision taken at the 38th meeting of the plenary Conference on 11 July 1974, *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. I, A/CONF.62/SR.38.

[22] *Ibid.*, vol. XIII, A/CONF.62/SR.122.

[23] 86th closed meeting of the plenary Conference held on 5 April 1978, in adopting resolution A/CONF.62/R.1 proposed by Nepal on behalf of the Asian Group; *ibid.*, vol. IX, footnote on page 3.

[24] The General Assembly of the United Nations paid tribute to the memory of Ambassador Hamilton Shirley Amerasinghe, President of the Conference since its inception, and prior to that, Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (A/35/PV.82). The General Assembly thereafter established a memorial fellowship in his name (resolution 35/116, paragraphs 1 and 2 of 10 December 1980 and resolution 36/79, third preambular paragraph and paragraph 6, of 9 December 1981). See also A/36/697.

[25] A/CONF.62/SR.143.

[26] *Ibid.*, vol. I, A/CONF.62/SR.2.

[27] Decision taken at the 3rd meeting of the plenary Conference on 10 December 1973 (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. I, p. 9).

[28] Economic implications of sea-bed mineral development in the international area: *ibid.*, vol. III (A/CONF.62/25 dated 22 May 1974).

Economic implications of sea-bed mining in the international area: *ibid.*, vol. IV (A/CONF.62/37 dated 18 February 1975).

Description of some types of marine technology and possible methods for their transfer: *ibid.*, vol. IV (A/CONF.62/C.3/L.22) dated 27 February 1975.

Draft alternative texts of the preamble and final clauses: *ibid.*, vol. VI (A/CONF.62/L.13) dated 26 July 1976.

Annotated directory of inter-governmental organizations concerned with ocean affairs (A/CONF.62/L.14) dated 10 August 1976.

Alternative means of financing the Enterprise: *ibid.*, vol. VI (A/CONF.62/C.1/L.17) dated 3 September 1976.

Costs of the Authority and contractual means of financing its activities, *ibid.*, vol. VII (A/CONF.62/C.1/L.19) dated 18 May 1977.

Manpower requirements of the Authority and related training needs, *ibid.*, vol. XII (A/CONF.62/82) dated 17 August 1979.

Potential financial implications for States Parties to the future Convention on the Law of the Sea (A/CONF.62/L.65) dated 20 February 1981.

Effects of the production limitation formula under certain specified assumptions (A/CONF.62/L.66) dated 24 February 1981 and (A/CONF.62/L.66/Corr.1) dated 3 March 1981.

Preliminary study illustrating various formulae for the definition of the continental shelf: *ibid.*, vol. IX (A/CONF.62/C.2/L.98) dated 18 April 1978; map illustrating various formulae for the definition of the continental shelf (A/CONF.62/C.2/L.98/Add.1); calculation of areas illustrated beyond 200 miles in document A/CONF.62/C.2/L.98/Add.1, *ibid.*, vol. IX, (A/CONF.62/C.2/L.98/Add.2) dated 3 May 1978; communication received from the Secretary of the Intergovernmental Oceanographic Commission: *ibid.*, vol. IX (A/CONF.62/C.2/L.98/Add.3) dated 28 August 1978.

Study of the implications of preparing large-scale maps for the Third United Nations Conference on the Law of the Sea: *ibid.*, vol. XI (A/CONF.62/C.2/L.99) dated 9 April 1979.

Study on the future functions of the Secretary-General under the draft Convention and on the needs of countries, especially developing countries, for information, advice, and assistance under the new legal régime (A/CONF.62/L.76) dated 18 August 1981.

[29] The co-ordinators of the language groups were as follows:

Arabic language group: Mustafa Kamil Yasseen (United Arab Emirates), and Mohammad Al-Haj Hamoud (Iraq).

Chinese language group: Wang Tieya (China), Ni Zhengyu (China), and Zhang Hongzeng (China).

English language group: Bernard H. Oxman (United States) and Thomas A. Clingan (United States).

Alternates: Steven Asher (United States) and Milton Drucker (United States).

French language group: Tullio Treves (Italy).

Alternate: Lucius Caflisch (Switzerland).

Russian language group: F. N. Kovalev (USSR), P. N. Evseev (USSR), Yevgeny N. Nasinovsky (USSR) and Georgy G. Ivanov (USSR).

Spanish language group: José Antonio Yturriaga Barbarán (Spain), José Manuel Lacleta Muñoz (Spain), José Antonio Pastor Ridruejo (Spain) and Luis Valencia Rodríguez (Ecuador).

[30] A/CONF.62/L.56, A/CONF.62/L.57/Rev.1 and A/CONF.62/L.63/Rev.1. See *Official Records of the Third United Nations Conference on the Law of the Sea*, vols. XIII and XIV.

[31] A/CONF.62/L.67/Add.1-16, A/CONF.62/L.75/Add.1-13, A/CONF.62/L.85/Add.1-9, A/CONF.62/L.142/Rev.1/Add.1 and A/CONF.62/L.152/Add.1-27.

[32] *Ibid.*, vol. I, A/CONF.62/SR.20.

[33] *Official Records of the General Assembly, Twenty-eighth Session, Plenary Meetings*, 2169th meeting.

[34] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. I, A/CONF.62/SR.19.

[35] *Ibid.*, vol. I, A/CONF.62/SR.40.

[36] *Ibid.*, vol. IV, A/CONF.62/SR.52.

[37] *Ibid.*, vol. XIII, A/CONF.62/SR.122.

[38] *Ibid.*, vol. I, A/CONF.62/SR.15.

[39] The First Committee appointed the following officers of the informal working groups set up by it between the second and eleventh sessions:

Christopher W. Pinto (Sri Lanka): Chairman of the informal body of the whole (decision of the first meeting of the First Committee) *Official Records of the Third United Nations Conference on the Law of the Sea, vol. II;* Chairman of the negotiating group on the system of operations, the régime and the conditions of exploration and exploitation of the Area, with a membership of 50 States, but open-ended (decision of the 14th to 16th meetings of the First Committee, *ibid.).*

S. P. Jagota (India) and H. H. M. Sondaal (Netherlands): Co-chairmen of the open-ended working group (decision of the 26th meeting of the First Committee, *ibid.*, vol. VI).

Jens Evensen (Norway): Special Co-ordinator of the Chairman's informal working group of the whole on the system of exploitation (decision of the 38th meeting of the First Committee, *ibid.*, vol. VII).

Satya N. Nandan (Fiji): Chairman of the informal group on the question of production policies, established under the auspices of Negotiating Group 1 referred to in paragraph 28 hereunder (see 114th meeting of the General Committee on 26 April 1979, *ibid.*, vol. IX).

Paul Bamela Engo (United Republic of Cameroon): Chairman of the First Committee, Francis X. Njenga (Kenya), Tommy T. B. Koh (Singapore) and Harry Wuensche (German Democratic Republic): Co-chairmen of the Working Group of 21 on First Committee issues with the Chairman of the First Committee as principal co-ordinator. The Working Group consisted of 10 members nominated by the Group of 77, China, and 10 members nominated by the principal industrialized countries with alternates for each group. The Group was constituted with members and alternates as necessary to represent the interests of the issue under consideration (decision of the 45th meeting of the General Committee on 9 April 1979, *ibid.*, vol. XI; see also 114th meeting of the plenary on 26 April 1979, *ibid.*, vol. XI).

The Second Committee set up informal consultative groups, at different stages, chaired by the three Vice-Chairmen, the representatives of Czechoslovakia, Kenya and Turkey and by the Rapporteur of the Committee, Satya N. Nandan (Fiji). (See statement by the Chairman of the Second Committee, A/CONF.62/C.2/L.87 (*ibid.*, vol. IV). See also statement on the work of the Committee prepared by the Rapporteur, A/CONF.62/C.2/L.89/Rev.1, *ibid.).*

The Third Committee appointed the following officers of its informal meetings:

José Luis Vallarta (Mexico): Chairman of the informal meetings on Protection and preservation of the marine environment (decision of the second meeting of the Third Committee, *ibid.*, vol. II).

Cornel A. Metternich (delegate of the Federal Republic of Germany): Chairman of the informal meetings on Scientific Research and the Development and Transfer of Technology (decision of the second meeting of the Third Committee, *ibid.*, vol. II; see also A/CONF.62/C.3/L.16, *ibid.*, vol. III).

[40] Decision taken at the 65th meeting of the plenary Conference on 12 April 1976, *ibid.*, vol. V, A/CONF.62/SR.65.

[41] *Ibid.*, vol. VI, A/CONF.62/SR.71.

[42] *Ibid.*, vol. VII, A/CONF.62/SR.77-SR.79.

[43] Decision taken at the 79th meeting of the plenary Conference on 28 June 1977, *ibid.*, vol. VII.

[44] President's explanatory memorandum attached to A/CONF.62/WP.10/Rev.2, dated 11 April 1980.

[45] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IX, A/CONF.62/SR.89 and 90. The descriptions of the items are recorded in A/CONF.62/62, *ibid.*, vol. X.

[46] *Ibid.*, vol. X.

[47] The Group of Legal Experts on the Settlement of Disputes relating to Part XI of the Informal Composite Negotiating Text was established by the Chairman of the First Committee in consultation with the President as reflected at the 114th meeting of the plenary and in A/CONF.62/C.1/L.25 and L.36, *ibid.*, vol. XI.

[48] The Group of Legal Experts on the Final Clauses was established by the President to deal with the technical aspects of the Final Clauses after their preliminary consideration in the informal plenary as recorded at the 120th meeting of the plenary of 24 August 1979, *ibid.*, vol. XII.

[49] As referred to in paragraph 27 above and in the President's explanatory memorandum attached to A/CONF.62/WP.10/Rev.2.

[50] Decision taken at the 141st meeting of the plenary on 29 August 1980, *ibid.*, vol. XIV, A/CONF.62/SR.141.

[51] *Ibid.*, also referred to in A/CONF.62/BUR.13/Rev.1.

[52] At the resumed eighth session.

[53] In adopting the programme of work (A/CONF.62/116), *ibid.*, A/CONF/62/SR.154.

[54] A/CONF/62/SR.174.

[55] Recorded vote taken at the request of the delegation of the United States of America, with two delegations not participating in the vote. The result was 130 in favour, 4 against with 17 abstentions.

[56] Decision taken by the Conference at the 182nd meeting of the plenary Conference on 30 April 1982 as well as its decision taken at the 184th meeting on 24 September 1982.

[57] Draft resolution A/CONF.62/L.3 and Add.1-4 adopted by the Conference at the 43rd meeting of the plenary on 22 July 1974, *ibid.*, vol. I.

[58] Draft resolution A/CONF/62/L.9 adopted by the Conference at the 51st meeting of the plenary on 28 August 1974, *ibid.*, vol. I.

[59] Draft Tribute A/CONF.62/L.15 adopted by the Conference at the 76th meeting of the plenary on 17 September 1976, *ibid.*, vol. VI.

[60] Draft resolution A/CONF.62/L.127 adopted by the Conference at the 182nd meeting of the plenary on 30 April 1982.

[60 *bis*] Annex VII.

RESOLUTION EXPRESSING GRATITUDE TO THE PRIME MINISTER, FOREIGN MINISTER AND DEPUTY PRIME MINISTER, THE GOVERNMENT AND OFFICIALS OF JAMAICA

The Third United Nations Conference on the Law of the Sea,

Bearing in mind that the Conference accepted with gratitude the invitation of the Government of Jamaica and held the final part of its eleventh session for the purpose of signing the Final Act of the Conference and opening the United Nations Convention on the Law of the Sea for signature, in the city of Montego Bay in Jamaica,

Acknowledging with grateful appreciation the generosity of the Government and the people of Jamaica, which enabled the Conference to meet in a congenial atmosphere under excellent conditions,

Decides to express to their Excellencies the Prime Minister and the Deputy Prime Minister and Minister for Foreign Affairs and Government and people of Jamaica, its profound gratitude for the exceptional hospitality extended to it.

— Resolution proposed by the President and adopted by the Conference at the 192nd meeting of the plenary on 9 December 1982.

Additions to the Final Act, in the form in which it was presented to the Conference, are given in footnotes 19 *bis* and 60 *bis*.

Annex I

RESOLUTION I

ESTABLISHMENT OF THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEA-BED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

The Third United Nations Conference on the Law of the Sea,

Having adopted the Convention on the Law of the Sea which provides for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea,

Having decided to take all possible measures to ensure the entry into effective operation without undue delay of the Authority and the Tribunal and to make the necessary arrangements for the comencement of their functions,

Having decided that a Preparatory Commission should be established for the fulfilment of these purposes,

Decides as follows:

1. There is hereby established the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. Upon signature of or accession to the Convention by 50 States, the Secretary-General of the United Nations shall convene the Commission, and it shall meet no sooner than 60 days and no later than 90 days thereafter.

2. The Commission shall consist of the representatives of States and of Namibia, represented by the United Nations Council for Namibia, which have signed the Convention or acceded to it. The representatives of signatories of the Final Act may participate fully in the deliberations of the Commission as observers but shall not be entitled to participate in the taking of decisions.

3. The Commission shall elect its Chairman and other officers.

4. The Rules of Procedure of the Third United Nations Conference on the Law of the Sea shall apply *mutatis mutandis* to the adoption of the rules of procedure of the Commission.

5. The Commission shall:

(a) prepare the provisional agenda for the first session of the Assembly and of the Council and, as appropriate, make recommendations relating to items thereon;

(b) prepare draft rules of procedure of the Assembly and of the Council;

(c) make recommendations concerning the budget for the first financial period of the Authority;

(d) make recommendations concerning the relationship between the Authority and the United Nations and other international organizations;

(e) make recommendations concerning the Secretariat of the Authority in accordance with the relevant provisions of the Convention;

(f) undertake studies, as necessary, concerning the establishment of the headquarters of the Authority, and make recommendations relating thereto;

(g) prepare draft rules, regulations and procedures, as necessary, to enable the Authority to commence its functions, including draft regulations concerning the financial management and the internal administration of the Authority;

(h) exercise the powers and functions assigned to it by resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment;

(i) undertake studies on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund, and submit recommendations to the Authority thereon.

6. The Commission shall have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes as set forth in this resolution.

7. The Commission may establish such subsidiary bodies as are necessary for the exercise of its functions and shall determine their functions and rules of procedure. It may also make use, as appropriate, of outside sources of expertise in accordance with United Nations practice to facilitate the work of bodies so established.

8. The Commission shall establish a special commission for the Enterprise and entrust to it the functions referred to in paragraph 12 of resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment. The special commission shall take all measures necessary for the early entry into effective operation of the Enterprise.

9. The Commission shall establish a special commission on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the producion of minerals derived from the Area and entrust to it the functions referred to in paragraph 5 (i).

10. The Commission shall prepare a report containing recommendations for submission to the meeting of the States Parties to be convened in accordance with Annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea.

11. The Commission shall prepare a final report on all matters within its mandate, except as provided in paragraph 10, for the presentation to the Assembly at its first session. Any action which may be taken on the basis of the report must be in conformity with the provisions of the Convention concerning the powers and functions entrusted to the respective organs of the Authority.

12. The Commission shall meet at the seat of the Authority if facilities are available; it shall meet as often as necessary for the expeditious exercise of its functions.

13. The Commission shall remain in existence until the conclusion of the first session of the Assembly, at which time its property and records shall be transferred to the Authority.

14. The expenses of the Commission shall be met from the regular budget of the United Nations, subject to the approval of the General Assembly of the United Nations.

15. The Secretary-General of the United Nations shall make available to the Commission such secretariat services as may be required.

16. The Secretary-General of the United Nations shall bring this resolution, in particular paragraphs 14 and 15, to the attention of the General Assembly for necessary action.

RESOLUTION II

GOVERNING PREPARATORY INVESTMENT IN PIONEER ACTIVITIES RELATING TO POLYMETALLIC NODULES

The Third United Nations Conference on the Law of the Sea,

Having adopted the Convention on the Law of the Sea (the "Convention"),

Having established by resolution I the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea (the "Commission") and directed it to prepare draft rules, regulations and procedures, as necessary to enable the Authority to commence its functions, as well as to make recommendations for the early entry into effective operation of the Enterprise,

Desirous of making provision for investments by States and other entities made in a manner compatible with the international régime set forth in Part XI of the Convention and the Annexes relating thereto, before the entry into force of the Convention,

Recognizing the need to ensure that the Enterprise will be provided with the funds, technology and expertise necessary to enable it to keep pace with the States and other entities referred to in the preceding paragraph with respect to activities in the Area,

Decides as follows:

1. For the purposes of this resolution:

(a) "pioneer investor" refers to:

(i) France, India, Japan and the Union of Soviet Socialist Republics, or a state enterprise of each of those States or one natural or juridical person which possesses the nationality of or is effectively controlled by each of those States, or their nationals, provided that the State concerned signs the Convention and the State or state enterprise or natural or juridical person has expended, before 1 January 1983, an amount equivalent to at least $US 30 million (United States dollars calculated in constant dollars relative to 1982) in pioneer activities and has expended no less than 10 per cent of that amount in the location, survey and evaluation of the area referred to in paragraph 3 (a);

(ii) four entities, whose components being natural or juridical persons[1] possess the nationality of one or more of the following States, or are effectively controlled by one or more of them or their nationals: Belgium, Canada, the Federal Republic of Germany, Italy, Japan, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, provided that the certifying State or States sign the Convention and the entity concerned has expended, before 1 January 1983, the levels of expenditure for the purpose stated in subparagraph (i);

[1] For their identity and composition see "Sea-bed mineral resource development: recent activities of the international Consortia" and addendum, published by the Department of International Economic and Social Affairs of the United Nations (ST/ESA/107 and Add.1).

(iii) any developing State which signs the Convention or any state enterprise or natural or juridical person which possesses the nationality of such State or is effectively controlled by it or its nationals, or any group of the foregoing, which, before 1 January 1985, has expended the levels of expenditure for the purpose stated in subparagraph (i);

The rights of the pioneer investor may devolve upon its successor in interest.

(b) "pioneer activities" means undertakings, commitments of financial and other assets, investigations, findings, research, engineering development and other activities relevant to the identification, discovery, and systematic analysis and evaluation of polymetallic nodules and to the determination of the technical and economic feasibility of exploitation. Pioneer activites include:

(i) any at-sea observation and evaluation activity which has as its objective the establishment and documentation of the nature, shape, concentration, location and grade of polymetallic nodules and of the environmental, technical and other appropriate factors which must be taken into account before exploitation;

(ii) the recovery from the Area of polymetallic nodules with a view to the designing, fabricating and testing of equipment which is intended to be used in the exploitation of polymetallic nodules;

(c) "certifying State" means a State which signs the Convention, standing in the same relation to a pioneer investor as would a sponsoring State pursuant to Annex III, article 4, of the Convention and which certifies the levels of expenditure specified in subparagraph (a);

(d) "polymetallic nodules" means one of the resources of the Area consisting of any deposit or accretion of nodules, on or just below the surface of the deep sea-bed, which contain manganese, nickel, cobalt and copper;

(e) "pioneer area" means an area allocated by the Commission to a pioneer investor for pioneer activities pursuant to this resolution. A pioneer area shall not exceed 150,000 square kilometres. The pioneer investor shall relinquish portions of the pioneer area to revert to the Area, in accordance with the following schedule:

(i) 20 per cent of the area allocated by the end of the third year from the date of the allocation;

(ii) an additional 10 per cent of the area allocated by the end of the fifth year from the date of the allocation;

(iii) an additional 20 per cent of the area allocated or such larger amount as would exceed the exploitation area decided upon by the Authority in its rules, regulations and procedures, after eight years from the date of the allocation of the area or the date of the award of a production authorization, whichever is earlier;

(f) "Area", "Authority", "activities in the Area" and "resources" have the meanings assigned to those terms in the Convention.

2. As soon as the Commission begins to function, any State which has signed the Convention may apply to the Commission on its behalf or on behalf of any state enterprise or entity or natural or juridical person specified in paragraph 1(a) for registration as a pioneer investor. The Commission shall register the applicant as a pioneer investor if the application:

(a) is accompanied, in the case of a State which has signed the Convention, by a statement certifying the level of expenditure made in accordance with paragraph 1(a), and, in all other cases, a certificate concerning such level of expenditure issued by a certifying State or States; and

(b) is in conformity with the other provisions of this resolution, including paragraph 5.

3. (a) Every application shall cover a total area which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The application shall indicate the co-ordinates of the area defining the total area and dividing it into two parts of equal estimated commercial value and shall contain all the data available to the applicant with respect to both parts of the area. Such data shall include, *inter alia*, information relating to mapping, testing, the density of polymetallic nodules and their metal content. In dealing with such data, the Commission and its staff shall act in accordance with the relevant provisions of the Convention and its Annexes concerning the confidentiality of data.

(b) Within 45 days of receiving the data required by subparagraph (a), the Commission shall designate the part of the area which is to be reserved in accordance with the Convention for the conduct of activities in the Area by the Authority through the Enterprise or in association with developing States. The other part of the area shall be allocated to the pioneer investor as a pioneer area.

4. No pioneer investor may be registered in respect of more than one pioneer area. In the case of a pioneer investor which is made up of two or more components, none of such components may apply to be registered as a pioneer investor in its own right or under paragraph 1 (a) (iii).

5. (a) Any State which has signed the Convention and which is a prospective certifying State shall ensure, before making applications to the Commission under paragraph 2, that areas in respect of which applications are made do not overlap one another or areas previously allocated as pioneer areas. The States concerned shall keep the Commission currently and fully informed of any efforts to resolve conflicts with respect to overlapping claims and of the results thereof.

(b) Certifying States shall ensure, before the entry into force of the Convention, that pioneer activities are conducted in a manner compatible with it.

(c) The prospective certifying States, including all potential claimants, shall resolve their conflicts as required under subparagraph (a) by negotiations within a reasonable period. If such conflicts have not been resolved by 1 March 1983, the prospective certifying States shall arrange for the submission of all such claims to binding arbitration in accordance with UNCITRAL Arbitration Rules to commence not later than 1 May 1983 and to be completed by 1 December 1984. If one of the States concerned does not wish to participate in the arbitration, it shall arrange for a juridical person of its nationality to represent it in the arbitration. The arbitral tribunal may, for good cause, extend the deadline for the making of the award for one or more 30-day periods.

(d) In determining the issue as to which applicant involved in a conflict shall be awarded all or part of each area in conflict, the arbitral tribunal shall find a solution which is fair and equitable, having regard, with respect to each applicant involved in the conflict, to the following factors:

(i) the deposit of the list of relevant co-ordinates with the prospective certifying State or States not later than the date of adoption of the Final Act or 1 January 1983, whichever is earlier;

(ii) the continuity and extent of past activities relevant to each area in conflict and to the application area of which it is a part;

(iii) the date on which each pioneer investor concerned or predecessor in interest or component organization thereof commenced activities at sea in the application area;

(iv) the financial cost of activities measured in constant United States dollars relevant to each area in conflict and to the application area of which it is a part; and

(v) the time when those activities were carried out and the quality of activities.

6. A pioneer investor registered pursuant to this resolution shall, from the date of registration, have the exclusive right to carry out pioneer activities in the pioneer area allocated to it.

7. (a) Every applicant for registration as a pioneer investor shall pay to the Commission a fee of $US 250,000. When the pioneer investor applies to the Authority for a plan of work for exploration and exploitation the fee referred to in Annex III, article 13, paragraph 2, of the Convention shall be $US 250,000.

(b) Every registered pioneer investor shall pay an annual fixed fee of $US 1 million commencing from the date of the allocation of the pioneer area. The payments shall be made by the pioneer investor to the Authority upon the approval of its plan of work for exploration and exploitation. The financial arrangements undertaken pursuant to such plan of work shall be adjusted to take account of the payments made pursuant to this paragraph.

(c) Every registered pioneer investor shall agree to incur periodic expenditures, with respect to the pioneer area allocated to it, until approval of its plan of work pursuant to paragraph 8, of an amount to be determined by the Commission. The amount should be reasonably related to the size of the pioneer area and the expenditures which would be expected of a *bona fide* operator who intends to bring that area into commercial production within a reasonable time.

8. (a) Within six months of the entry into force of the Convention and certification by the Commission in accordance with paragraph 11, of compliance with this resolution, the pioneer investor so registered shall apply to the Authority for approval of a plan of work for exploration and exploitation, in accordance with the Convention. The plan of work in respect of such application shall comply with and be governed by the relevant provisions of the Convention and the rules, regulations and procedures of the Authority, including those on the operational requirements, the financial requirements and the undertakings concerning the transfer of technology. Accordingly, the Authority shall approve such application.

(b) When an application for approval of a plan of work is submitted by an entity other than a State, pursuant to subparagraph (a), the certifying State or States shall be deemed to be the sponsoring State for the purposes of Annex III, article 4, of the Convention, and shall thereupon assume such obligations.

(c) No plan of work for exploration and exploitation shall be approved unless the certifying State is a Party to the Convention. In the case of the entities referred to in paragraph 1 (a) (ii), the plan of work for exploration and exploitation shall not be approved unless all the States whose natural or juridical persons comprise those entities are Parties to the Convention. If any such State fails to ratify the Convention within six months after it has received a notification from the Authority that an

application by it, or sponsored by it, is pending, its status as a pioneer investor or certifying State, as the case may be, shall terminate, unless the Council, by a majority of three fourths of its members present and voting, decides to postpone the terminal date for a period not exceeding six months.

9. (a) In the allocation of production authorizations, in accordance with article 151 and Annex III, article 7, of the Convention, the pioneer investors who have obtained approval of plans of work for exploration and exploitation shall have priority over all applicants other than the Enterprise which shall be entitled to production authorizations for two mine sites including that referred to in article 151, paragraph 5, of the Convention. After each of the pioneer investors has obtained production authorization for its first mine site, the priority for the Enterprise contained in Annex III, article 7, paragraph 6, of the Convention shall apply.

(b) Production authorizations shall be issued to each pioneer investor within 30 days of the date on which that pioneer investor notifies the Authority that it will commence commercial production within five years. If a pioneer investor is unable to begin production within the period of five years for reasons beyond its control, it shall apply to the Legal and Technical Commission for an extension of time. That Commission shall grant the extension of time, for a period not exceeding five years and not subject to further extension, if it is satisfied that the pioneer investor cannot begin on an economically viable basis at the time originally planned. Nothing in this subparagraph shall prevent the Enterprise or any other pioneer applicant, who has notified the Authority that it will commence commercial production within five years, from being given a priority over any applicant who has obtained an extension of time under this subparagraph.

(c) If the Authority, upon being given notice, pursuant to subparagraph (b), determines that the commencement of commercial production within five years would exceed the production ceiling in article 151, paragraphs 2 to 7, of the Convention, the applicant shall hold a priority over any other applicant for the award of the next production authorization allowed by the production ceiling.

(d) If two or more pioneer investors apply for production authorizations to begin commerical production at the same time and article 151, paragraphs 2 to 7, of the Convention, would not permit all such production to commence simultaneously, the Authority shall notify the pioneer investors concerned. Within three months of such notification, they shall decide whether and, if so, to what extent they wish to apportion the allowable tonnage among themselves.

(e) If, pursuant to subparagraph (d), the pioneer investors concerned decide not to apportion the available production among themselves they shall agree on an order of priority for production authorizations and all subsequent applications for production authorizations will be granted after those referred to in this subparagraph have been approved.

(f) If, pursuant to subparagraph (d), the pioneer investors concerned decide to apportion the available production among themselves, the Authority shall award each of them a production authorization for such lesser quantity as they have agreed. In each case the stated production requirements of the applicant will be approved and their full production will be allowed as soon as the production ceiling admits of additional capacity sufficient for the applicants involved in the competition. All subsequent

applications for production authorizations will only be granted after the requirements of this subparagraph have been met and the applicant is no longer subject to the reduction of production provided for in this subparagraph.

(g) If the parties fail to reach agreement within the stated time period, the matter shall be decided immediately by the means provided for in paragraph 5(c) in accordance with the criteria set forth in Annex III, article 7, paragraphs 3 and 5, of the Convention.

10. (a) Any rights acquired by entities or natural or juridical persons which possess the nationality of or are effectively controlled by a State or States whose status as certifying State has been terminated, shall lapse unless the pioneer investor changes its nationality and sponsorship within six months of the date of such termination, as provided for in subparagraph (c).

(b) A pioneer investor may change its nationality and sponsorship from that existing at the time of its registration as a pioneer investor to that of any State Party to the Convention which has effective control over the pioneer investor in terms of paragraph 1 (a).

(c) Changes of nationality and sponsorship pursuant to this paragraph shall not affect any right or priority conferred on a pioneer investor pursuant to paragraphs 6 and 8.

11. The Commission shall:

(a) provide each pioneer investor with the certificate of compliance with the provisions of this resolution referred to in paragraph 8; and

(b) include in its final report required by paragraph 11 of resolution I of the Conference details of all registrations of pioneer investors and allocations of pioneer areas pursuant to this resolution.

12. In order to ensure that the Enterprise is able to carry out activities in the Area in such a manner as to keep pace with States and other entities:

(a) every registered pioneer investor shall:

(i) carry out exploration, at the request of the Commission, in the area reserved, pursuant to paragraph 3 in connection with its application, for activities in the Area by the Authority through the Enterprise or in association with developing States, on the basis that the costs so incurred plus interest thereon at the rate of 10 per cent per annum shall be reimbursed;

(ii) provide training at all levels for personnel designated by the Commission;

(iii) undertake before the entry into force of the Convention, to perform the obligations prescribed in the Convention relating to transfer of technology;

(b) every certifying State shall:

(i) ensure that the necessary funds are made available to the Enterprise in a timely manner in accordance with the Convention, upon its entry into force; and

(ii) report periodically to the Commission on the activities carried out by it, by its entities or natural or juridical persons.

13. The Authority and its organs shall recognize and honour the rights and obligations arising from this resolution and the decisions of the Commission taken pursuant to it.

14. Without prejudice to paragraph 13, this resolution shall have effect until the entry into force of the Convention.

15. Nothing in this resolution shall derogate from Annex III, article 6, paragraph 3 (c), of the Convention.

RESOLUTION III

The Third United Nations Conference on the Law of the Sea,

Having regard to the Convention on the Law of the Sea,

Bearing in mind the Charter of the United Nations, in particular Article 73,

1. *Declares* that:

(a) In the case of a territory whose people have not attained full independence or other self-governing status recognized by the United Nations, or a territory under colonial domination, provisions concerning rights and interests under the Convention shall be implemented for the benefit of the people of the territory with a view to promoting their well-being and development.

(b) Where a dispute exists between States over the sovereignty of a territory to which this resolution applies, in respect of which the United Nations has recommended specific means of settlement, there shall be consultations between the parties to that dispute regarding the exercise of the rights referred to in subparagraph (a). In such consultations the interests of the people of the territory concerned shall be a fundamental consideration. Any exercise of those rights shall take into account the relevant resolutions of the United Nations and shall be without prejudice to the position of any party to the dispute. The States concerned shall make every effort to enter into provisional arrangements of a practical nature and shall not jeopardize or hamper the reaching of a final settlement of the dispute.

2. *Requests* the Secretary-General of the United Nations to bring this resolution to the attention of all Members of the United Nations and the other participants in the Conference, as well as the principal organs of the United Nations, and to request their compliance with it.

RESOLUTION IV

The Third United Nations Conference on the Law of the Sea,

Bearing in mind that national liberation movements have been invited to participate in the Conference as observers in accordance with rule 62 of its rules of procedure,

Decides that the national liberation movements, which have been participating in the Third United Nations Conference on the Law of the Sea, shall be entitled to sign the Final Act of the Conference, in their capacity as observers.

Annex II

STATEMENT OF UNDERSTANDING CONCERNING A SPECIFIC METHOD TO BE USED IN ESTABLISHING THE OUTER EDGE OF THE CONTINENTAL MARGIN

The Third United Nations Conference on the Law of the Sea,

Considering the special characteristics of a State's continental margin where:

(1) the average distance at which the 200 metre isobath occurs is not more than

20 nautical miles; (2) the greater proportion of the sedimentary rock of the continental margin lies beneath the rise; and

Taking into account the inequity that would result to that State from the application to its continental margin of article 76 of the Convention, in that, the mathematical average of the thickness of sedimentary rock along a line established at the maximum distance permissible in accordance with the provisions of paragraph 4 (a) (i) and (ii) of that article as representing the entire outer edge of the continental margin would not be less than 3.5 kilometres; and that more than half of the margin would be excluded thereby;

Recognizes that such State may, notwithstanding the provisions of article 76, establish the outer edge of its continental margin by straight lines not exceeding 60 nautical miles in length connecting fixed points, defined by latitude and longitude, at each of which the thickness of sedimentary rock is not less than 1 kilometre,

Where a State establishes the outer edge of its continental margin by applying the method set forth in the preceding paragraph of this statement, this method may also be utilized by a neighbouring State for delineating the outer edge of its continental margin on a common geological feature, where its outer edge would lie on such feature on a line established at the maximum distance permissible in accordance with article 76, paragraph 4 (a) (i) and (ii), along which the mathematical average of the thickness of sedimentary rock is not less than 3.5 kilometres,

The Conference requests the Commission on the Limits of the Continental Shelf set up pursuant to Annex II of the Convention, to be governed by the terms of this Statement when making its recommendations on matters related to the establishment of the outer edge of the continental margins of these States in the southern part of the Bay of Bengal.

Annex III

TRIBUTE TO SIMON BOLIVAR THE LIBERATOR

The Third United Nations Conference on the Law of the Sea,

Considering that 24 July 1974 marks a further anniversary of the birth of Simón Bolivar, the Liberator, a man of vision and early champion of international organization, and a historic figure of universal dimensions,

Considering further that the work of Simón Bolivar the Liberator, based on the concepts of liberty and justice as foundations for the peace and progress of peoples, has left an indelible mark on history and constitutes a source of constant inspiration,

Decides to pay a public tribute of admiration and respect to Simón Bolívar the Liberator, in the plenary meeting of the Third United Nations Conference on the Law of the Sea.

Annex IV

RESOLUTION EXPRESSING GRATITUDE TO THE PRESIDENT, THE GOVERNMENT AND OFFICIALS OF VENEZUELA

The Third United Nations Conference on the Law of the Sea,

Bearing in mind that its second session was held in the city of Caracas, cradle of Simón Bolívar, Liberator of five nations, who devoted his life to fighting for

the self-determination of peoples, equality among States and justice as the expression of their common destiny,

Acknowledging with keen appreciation the extraordinary effort made by the Government and the people of Venezuela, which enabled the Conference to meet in the most favourable spirit of brotherhood and in unparalleled material conditions,

Decides

1. To express to His Excellency the President of the Republic of Venezuela, the President and members of the Organizing Committee of the Conference and the Government and people of Venezuela its deepest gratitude for the unforgettable hospitality which they have offered it;

2. To give voice to its hope that the ideals of social justice, equality among nations and solidarity among peoples advocated by the Liberator Simón Bolívar will serve to guide the future work of the Conference.

Annex V

TRIBUTE TO THE AMPHICTYONIC CONGRESS OF PANAMA

The Third United Nations Conference on the Law of the Sea, at its fifth session,

Considering that the current year 1976 marks the one hundred and fiftieth anniversary of the Amphictyonic Congress of Panama, convoked by the Liberator Simón Bolívar for the laudable and visionary purpose of uniting the Latin American peoples,

Considering likewise that a spirit of universality prevailed at the Congress of Panama, which was ahead of its time and which foresaw that only on the basis of union and reciprocal co-operation is it possible to guarantee peace and promote the development of nations,

Considering further that the Congress of Panama evoked the prestigious and constructive Greek Amphictyony and anticipated the ecumenical and creative image of the United Nations,

Decides to render to the Amphictyonic Congress of Panama, in a plenary meeting of the Third United Nations Conference on the Law of the Sea, at its fifth session, a public tribute acknowledging its expressive historic significance.

Annex VI

RESOLUTION ON DEVELOPMENT OF NATIONAL MARINE SCIENCE, TECHNOLOGY AND OCEAN SERVICE INFRASTRUCTURES

The Third United Nations Conference on the Law of the Sea,

Recognizing that the Convention on the Law of the Sea is intended to establish a new régime for the seas and oceans which will contribute to the realization of a just and equitable international economic order through making provision for the peaceful use of ocean space, the equitable and efficient management and utilization of its resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the new régime must take into account, in particular, the special needs and interests of the developing countries, whether coastal, landlocked, or geographically disadvantaged,

Aware of the rapid advances being made in the field of marine science and technology, and the need for the developing countries, whether coastal, land-locked or geographically disadvantaged, to share in these achievements if the aforementioned goals are to be met,

Convinced that, unless urgent measures are taken, the marine scientific and technological gap between the developed and the developing countries will widen further and thus endanger the very foundations of the new régime,

Believing that optimum utilization of the new opportunities for social and economic development offered by the new régime will be facilitated through action at the national and international level aimed at strengthening national capabilities in marine science, technology and ocean services, particularly in the developing countries, with a view to ensuring the rapid absorption and efficient application of technology and scientific knowledge available to them,

Considering that national and regional marine scientific and technological centres would be the principal institutions through which States and, in particular, the developing countries, foster and conduct marine scientific research, and receive and disseminate marine technology,

Recognizing the special role of the competent international organizations envisaged by the Convention on the Law of the Sea, especially in relation to the establishment and development of national and regional marine scientific and technological centres,

Noting that present efforts undertaken within the United Nations system in training, education and assistance in the field of marine science and technology and ocean services are far below current requirements and would be particularly inadequate to meet the demands generated through operation of the Convention on the Law of the Sea,

Welcoming recent initiatives within international organizations to promote and co-ordinate their major international assistance programmes aimed at strengthening marine science infrastructures in developing countries,

1. *Calls upon* all Member States to determine appropriate priorities in their development plans for the strengthening of their marine science, technology and ocean services;

2. *Calls upon* the developing countries to establish programmes for the promotion of technical co-operation among themselves in the field of marine science, technology and ocean service development;

3. *Urges* the industrialized countries to assist the developing countries in the preparation and implementation of their marine science, technology and ocean service development programmes;

4. *Recommends* that the World Bank, the regional banks, the United Nations Development Programme, the United Nations Financing System for Science and Technology and other multilateral funding agencies augment and co-ordinate their operations for the provision of funds to developing countries for the preparation and implementation of major programmes of assistance in strengthening their marine science, technology and ocean services;

5. *Recommends* that all competent international organizations within the United Nations system expand programmes within their respective fields of competence for assistance to developing countries in the field of marine science technology and ocean services and co-ordinate their efforts on a system-wide basis in the implementation of such programmes, paying particular attention to the special needs of the developing countries, whether coastal, land-locked or geographically disadvantaged;

6. *Requests* the Secretary-General of the United Nations to transmit this resolution to the General Assembly at its thirty-seventh session.

Appendix

OBSERVERS THAT PARTICIPATED AT SESSIONS OF THE CONFERENCE

States and territories

Cook Islands (third and tenth sessions)
Netherlands Antilles (third to resumed seventh sessions, resumed eighth session, ninth and eleventh sessions)
Papua New Guinea (third session)
Seychelles (fifth session)
Suriname (third session)
Trust Territory of the Pacific Islands (third to eleventh sessions)

Liberation movements

African National Congress (South Africa)
African National Council (Zimbabwe)
African Party for the Independence of Guinea and Cape Verde Islands (PAIGC)
Palestine Liberation Organization
Pan Africanist Congress of Azania (South Africa)
Patriotic Front (Zimbabwe)
Seychelles People's United Party (SPUP)
South West Africa People's Organization (SWAPO)

Specialized agencies and other organizations

International Labour Organisation (ILO)
Food and Agriculture Organization of the United Nations (FAO)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
Intergovernmental Oceanographic Commission (IOC)
International Civil Aviation Organization (ICAO)
World Health Organization (WHO)
World Bank
International Telecommunication Union (ITU)
World Meteorological Organization (WMO)
International Maritime Organization (IMO)
World Intellectual Property Organization (WIPO)

* * * *

International Atomic Energy Agency (IAEA)

Intergovernmental organizations

Andes Development Corporation
Asian-African Legal Consultative Committee
Commonwealth Secretariat
Council of Arab Economic Unity
Council of Europe
European Communities
Inter-American Development Bank
International Hydrographic Bureau
International Oil Pollution Compensation Fund

League of Arab States
Organization of African Unity
Organization of American States
Organization of Arab Petroleum Exporting Countries
Organization of the Islamic Conference
Organization for Economic Co-operation and Development
Organization of Petroleum Exporting Countries
Permanent Commission for the South Pacific
Saudi-Sudanese Red Sea Joint Commission
West African Economic Community

Non-governmental organizations

Category I

International Chamber of Commerce
International Confederation of Free Trade Unions
International Co-operative Alliance
International Council of Voluntary Agencies
International Council of Women
International Youth and Student Movement for the United Nations
United Towns Organization
World Confederation of Labour
World Federation of United Nations Associations
World Muslim Congress

Category II

Arab Lawyers Union
Bahá'i International Community
Baptist World Alliance
Carnegie Endowment for International Peace
Commission of the Churches on International Affairs
Foundation for the Peoples of the South Pacific, Inc., The
Friends World Committee for Consultation
Inter-American Council of Commerce and Production
International Air Transport Association
International Association for Religious Freedom
International Bar Association
International Chamber of Shipping
International Commission of Jurists
International Co-operation for Socio-Economic Development
International Council of Environmental Law
International Council of Scientific Unions
International Federation for Human Rights
International Hotel Association
International Law Association
International Movement for Fraternal Union among Races and Peoples (UFER)
International Organization of Consumers' Unions
International Union for Conservation of Nature and Natural Resources
Latin American Association of Finance Development Institutions (ALIDE)
Mutual Assistance of the Latin American Government Oil Companies (ARPEL)

Pan American Federation of Engineering Societies (UPADI)
Pax Christi, International Catholic Peace Movement
Society for International Development (SID)
Women's International League for Peace and Freedom
World Alliance of Young Men's Christian Associations
World Association of World Federalists
World Conference on Religion and Peace
World Peace Through Law Centre
World Young Women's Christian Association

Roster

Asian Environmental Society
Center for Inter-American Relations
Commission to Study the Organization of Peace
Foresta Institute for Ocean and Mountain Studies
Friends of the Earth (F.O.E.)
International Institute for Environment and Development
International Ocean Institute
International Studies Association
National Audubon Society
Population Institute
Sierra Club
United Seamen's Service
World Federation of Scientific Workers
World Society of Ekistics

SIGNATORIES OF THE CONVENTION

as at 10 December 1982, when the Convention was opened for signature at Montego Bay, Jamaica

Algeria
Angola
Australia
Austria
Bahamas
Bahrain
Bangladesh
Barbados
Belize
Bhutan
Brazil
Bulgaria
Burma
Burundi
Byelorussian SSR
Canada
Cape Verde
Chad
Chile
China
Colombia
Congo
Cook Islands
Costa Rica
Cuba
Cyprus
Czechoslovakia
Democratic People's Republic of Korea
Democratic Yemen
Denmark
Djibouti
Dominican Republic
Egypt
Ethiopia
Fiji*
Finland
France
Gabon
Gambia
German Democratic Republic
Ghana
Greece
Grenada
Guinea-Bissau
Guyana
Haiti
Honduras
Hungary
Iceland
India
Indonesia
Iran
Iraq
Ireland
Ivory Coast
Jamaica
Kenya
Kuwait
Lao People's Democratic Republic
Lesotho
Liberia
Malaysia
Maldives
Malta
Mauritania
Mauritius
Mexico
Monaco
Mongolia
Morocco
Mozambique
Namibia (United Nations Council for Namibia)
Nauru
Nepal
Netherlands
New Zealand
Niger
Nigeria
Norway
Pakistan
Panama
Papua New Guinea
Paraguay
Philippines
Poland
Portugal
Romania
Rwanda
Saint Lucia
Saint Vincent and the Grenadines
Senegal
Seychelles
Sierra Leone
Singapore
Solomon Islands
Somalia
Sri Lanka
Sudan
Suriname
Sweden
Thailand
Togo
Trinidad and Tobago
Tunisia
Tuvalu
Uganda
Ukrainian SSR
USSR
United Arab Emirates
United Republic of Cameroon
United Republic of Tanzania
Upper Volta
Uruguay
Vanuatu
Viet Nam
Yemen
Yugoslavia
Zambia
Zimbabwe

SIGNATORIES OF THE FINAL ACT

The Final Act was signed by all 119 delegations which signed the Convention, as well as by the following:

Full participants

Belgium
Benin
Botswana
Ecuador
Equatorial Guinea
Federal Republic of Germany
Holy See
Israel
Italy
Japan
Jordan
Libyan Arab Jamahiriya
Luxembourg
Oman
Peru
Republic of Korea
Samoa
Spain
Switzerland
United Kingdom of Great Britain and Northern Ireland
United States
Venezuela
Zaire

States and territories with observer status

Netherlands Antilles
Trust Territory of the Pacific Islands

Intergovernmental organization

European Economic Community

National liberation movements

African National Congress of South Africa
Palestine Liberation Organization
Pan Africanist Congress of Azania
South West Africa People's Organization

* Fiji deposited its instrument of ratification of the Convention on 10 December 1982.

Statement by Thomas Clingan for the U.S. Delegation to the Eleventh Session of the U.N. Conference on the Law of the Sea, December 9, 1982*

* 17 UNCLOS III Official Records 116.

192nd meeting

Thursday, 9 December 1982, at 3 p.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*concluded*)

1. Mr. CLINGAN (United States of America): I wish first to express my delegation's gratitude for the generous hospitality of the Government of Jamaica, for its invitation to serve as host for these proceedings in this beautiful environment, and for the excellent arrangements it has provided. I should also like to express our appreciation to you, Mr. President, to the other officers of the Conference and to the members of the secretariat, all of whom have laboured in these negotiations over many years.

2. I am here to sign, on behalf of the United States, the Final Act of the Conference. It had been our hope that we would be here for another purpose as well. The United States approached the work of the Conference early this year with renewed dedication and hope. As the President of the United States said on 29 January 1982, the United States remained committed to the multilateral process for seeking agreement on the law of the sea. With that in mind, the United States delegation participated fully in the eleventh session and sought a final result that would command global consensus. Unfortunately, the Conference did not achieve that result.

3. The United States recognizes that certain aspects of the Convention represent positive accomplishments. Indeed, those parts of the Convention dealing with navigation and overflight and most other provisions of the Convention serve the interests of the international community. These texts reflect prevailing international practice. They also demonstrate that the Conference believed that it was articulating rules in most areas that reflect the existing state of affairs—a state of affairs that we wished to preserve by enshrining these beneficial and desirable principles in treaty language.

4. Unfortunately, despite these accomplishments, the deep sea-bed mining régime that would be established by the Convention is unacceptable and would not serve the interests of the international community.

5. The Conference undertook, for the first time in history, to create novel institutional arrangements for the regulation of sea-bed mining beyond the limits of national jurisdiction. It attempted to construct new and complex institutions to regulate the exploitation of these resources in a field requiring high technology that has not yet been fully developed, and massive investments. We had all hoped that these institutions would encourage the development of sea-bed resources which, if left undeveloped, would benefit no one. A régime which would promote sea-bed mining to the advantage of all was the objective towards which we laboured.

6. We regret that that objective was not achieved. Our major concerns with the sea-bed mining texts have been set forth in the records of this Conference and I shall not use this occasion to repeat them. Suffice it to say that along the road some lost sight of what it was the world community had charged us to do. They forgot that in the process of political interchange the political and economic costs can become too high for some participants to bear. They forgot that to achieve the global consensus we all sought, no nation should be asked to sacrifice fundamental national interests.

7. The result is that consensus eluded us on deep sea-bed mining. Each nation must now evaluate how it must act to protect its national interests in the years to come.

8. We need not fear the future. In particular, those elements which promote the general community interests with respect to navigation and the conservation and utilization of resources within national jurisdiction reflect long-standing practice. The expectations of the international community in these areas can and should be realized, because we recognize that certain practices are beneficial to the community as a whole. For example, the Convention has recognized the sovereign rights of the coastal State over the resources of the exclusive economic zone, jurisdiction over artificial islands, and jurisdiction over installations and structures used for economic purposes therein, while retaining the international status of the zone in which all States enjoy the freedoms of navigation, overflight, the laying of submarine cables and pipelines and other internationally lawful uses of the sea, including military operations, exercises and activities. In addition, the Conference record supports the traditional United States position concerning innocent passage in the territorial sea. The rules reflect the hopes of the international community; they are very wise and obviously meant to last.

9. Institutions, however, that do not command consensus and that are not beneficial to the community as a whole raise serious problems. In these circumstances, alternative ways of preserving national access to deep sea-bed resources are necessary, just and permitted by international law.

10. As we begin the journey before us, we should face the future without rancour or recrimination, ready to meet the challenges that lie ahead. The United States faces the future in that spirit. In the pursuit of its own legitimate and vital interests, my country will act with responsibility and with awareness of the interests of others. This very pursuit is necessary to the development of the resources from which we can all benefit. Although States will take different roads from here, I believe they share a common goal—peace and the rule of law in the uses of the world's oceans.

11. My delegation wishes to join the many previous speakers who paid a tribute to the memory of the late Hamilton Shirley Amerasinghe of Sri Lanka, who laboured diligently as your predecessor, Mr. President, in the earlier stages of this Conference. None who knew him will forget his warm and outgoing personality, his wit or his many significant contributions to the work of the Conference.

12. In conclusion, on a personal note, I should like to express my gratitude to you, Mr. President, and through you to all concerned, for the friendship and co-operation I have enjoyed through the many years of this Conference.

Law of the Sea, Report of the Secretary-General, November 27, 1985*

* U.N. Doc. A/40/923 (1985), at 5.

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LAW OF THE SEA

Report of the Secretary-General

CONTENTS

PART ONE

DEVELOPMENTS RELATING TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

I. STATUS OF THE CONVENTION

2. The United Nations Convention on the Law of the Sea closed for signature on 9 December 1984, having received a total of 159 signatures.

3. Upon signature, 36 States and one of the entities referred to in article 305, paragraph 1, made declarations under article 310 of the Convention. Among those, six States 2/ made declarations in accordance with article 287 with respect to the choice of procedure for the settlement of disputes concerning the interpretation or application of the Convention and one entity 3/ made a declaration in accordance with annex IX, article 2 of the Convention. Declarations made upon signature were issued by the Legal Office and are also included in The Law of the Sea - Status of the United Nations Convention on the Law of the Sea, 4/ prepared by the Office of the Special Representative of the Secretary-General for the Law of the Sea (see annex).

4. In accordance with article 308, paragraph 1, the Convention will enter into force 12 months after the date of the deposit of the sixtieth instrument of ratification or accession. As at 19 November 1985, 25 instruments of ratification have been deposited with the Secretary-General, as follows: Bahamas; Bahrain; Belize; Cameroon; Cuba; Egypt; Fiji; Gambia; Ghana; Guinea; Iceland; Iraq; Ivory Coast; Jamaica; Mali; Mexico; Philippines; Saint Lucia; Senegal; Sudan; Togo; Tunisia; United Republic of Tanzania; Zambia and the United Nations Council for Namibia.

5. Upon ratification, five States (Cuba, Egypt, Iceland, the Philippines and Tunisia) made declarations under article 310 of the Convention. Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia and the Union of Soviet Socialist Republics have lodged objections to the declaration of the Philippines on the grounds that it is incompatible with article 310 of the Convention. It will be recalled that article 309 provides that no reservation or exceptions may be made to the Convention unless expressly permitted by other articles of the Convention. Under article 310, however, States are entitled to make declarations or statements. Article 310 reads as follows: "Article 309 does not preclude a State, when signing, ratifying or acceding to the Convention from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of the Convention, provided that said declarations or statements do not purport to exclude or to modify the legal effect of the provisions of the Convention in their application to that State." The texts of declarations made by these States were issued by the Legal Office and are also included in The Law of the Sea - Status of the United Nations Convention on the Law of the Sea. 4/ This publication also contains other declarations, objections or notes with respect to declarations made upon ratification.

II. STATE PRACTICE AND NATIONAL POLICY

6. The provisions of the Convention have continued to exert an important influence on the development of national policy with respect to law of the sea matters. Since the submission of the report of the Secretary-General to the thirty-ninth session of the General Assembly (A/39/647 and Corr.1), further developments and trends in national policy regarding marine affairs are to be noted. From the information received or collected by the Office of the Special Representative of the Secretary-General for the Law of the Sea, it is seen that a number of States have adopted national legislation dealing with a variety of marine issues, which, in particular, relate to such matters as the determination of the baselines, the breadth and status of the territorial sea, the establishment of exclusive economic zones, the definition of the continental shelf and the delimitation of maritime boundaries between States with opposite or adjacent coasts.

7. The Convention has set clear limits for areas falling under national sovereignty and jurisdiction - a limit of 12 nautical miles for the territorial sea, 24 nautical miles for the contiguous zone and 200 miles for the exclusive economic zone. It was the historic failure to establish specific limits to the territorial sea which gave rise to uncertainty as to the validity of claims to extended areas of territorial seas. The widespread agreement to a 12-mile territorial sea as reflected in the Convention has been increasingly confirmed by the practice of a large number of States.

8. In his report (A/39/647 and Corr.1) the Secretary-General had noted that some 80 States have established territorial seas of 12 nautical miles. Since then several States have enacted legislation on the territorial sea. Among the latter group of States, five have adopted a 12 mile territorial sea 5/ and three have adopted legislation setting out specific co-ordinates to establish the outer limits of the territorial sea within the 12-mile limit. 6/ The legislation of two States expressly sets out the legal status of the territorial sea 7/ consistent with the Convention of the Law of the Sea.

9. At present a total of some 89 States have a territorial sea of 12 nautical miles in breadth 8/ while 22 still have legislation establishing the limits of the territorial sea beyond 12 nautical miles. 9/ It is noteworthy that the legislation of these States pre-dates the adoption of the 1982 Convention on the Law of the Sea while recent legislation on this issue has largely conformed to the relevant provisions of the Convention as States continue to harmonize their national legislation with the Convention.

10. There are 79 States from all regions which have promulgated laws or decrees establishing exclusive economic zones or exclusive fishery zones of up to 200 nautical miles. 10/ The new concept of the exclusive economic zone as embodied in the Convention on the Law of the Sea has continued to receive widespread support from the international community. The International Court of Justice itself has stated that this concept "may be regarded as part of modern international law". 11/

11. As has been noted in the report of the Secretary-General (A/39/647 and Corr.1), an examination of the maritime legislation of States reveals that several of these legislative enactments diverge, sometimes in important respects, from the provisions on the exclusive economic zone as provided for in the Convention. Several of those laws were based on earlier versions of the text, particularly the Informal Single Negotiating Text. 12/ The provisions of these informal negotiating texts were subject to change and indeed were changed over the years. Thus, the legislation of a number of coastal States does not fully reflect all those modifications made to the texts which are now embodied in the United Nations Convention on the Law of the Sea. Some of these modifications represented delicate compromises resulting from difficult and prolonged negotiations. However, some States have already modified their legislation to conform to the relevant provisions of the Convention and others are in the course of reviewing their legislation.

12. With respect to the continental shelf, 16 States have enacted legislation incorporating the concept of natural prolongation as embodied in the Convention. 13/ At least two of these States have enacted legislation incorporating some of the more detailed technical provisions of the Convention. 14/

III. SETTLEMENT OF CONFLICTS AND DISPUTES

13. Expanded coastal States jurisdiction over adjacent maritime areas that has been such a distinctive feature of the new legal régime for the seas has inevitably created several potential conflicts and disputes among States. The Convention, by providing a legal order for the seas, has promoted the peaceful resolution of such conflicts. Moreover, the Convention itself contains a mechanism for the peaceful settlement of disputes concerning its interpretation and application.

14. Several disputes with respect to maritime delimitation have already been resolved either by the conclusion of delimitation agreements or by international adjudication or other forms of peaceful settlement. As an example of the latter, the dispute between Argentina and Chile in the Beagle Channel was submitted to the mediation of Pope John Paul II. Through this mediation Argentina and Chile were able to conclude on 18 October 1984 a Treaty of Peace and Friendship, which, inter alia, dealt with the maritime boundary in the Beagle Channel. Argentina ratified the treaty on 14 March 1985 and Chile on 11 April. On 1 May, both States signed the treaty at Rome in the Vatican. The Parties have begun implementing the provisions of the treaty.

15. Among the recent cases concerning maritime delimitation submitted to third party procedure for the settlement of disputes are the disputes between Guinea and Guinea-Bissau and between Malta and the Libyan Arab Jamahiriya. The first was submitted to an arbitral tribunal and the second to the International Court of Justice. The Court is also seized with an Application for Revision and Interpretation of the Judgment of 24 February 1982 in the case concerning the continental shelf (Tunisia/Libyan Arab Jamahiriya). 11/

Guinea - Guinea-Bissau

16. On 14 February 1985, the Arbitral Award for the delimitation of Maritime Boundaries between Guinea and Guinea-Bissau was handed down. 15/ The Tribunal was posed with the following questions: first, whether the Convention of 12 May 1886 between France and Portugal - the former metropolitan countries - had determined the maritime frontier between the two west African States; second, whether the protocols and annexes of that Convention were of any juridical value in its interpretation; and finally, in the light of the response to those questions, what was the boundary line which delimited the maritime areas appertaining respectively to Guinea-Bissau and to Guinea?

17. The Award held that the 1886 Convention had not determined the maritime frontier between those two States and that the protocols and annexes played a significant role in the interpretation of the Treaty. The Tribunal noted that the Convention was essentially concerned with land territory.

18. The Tribunal, as it was required, delineated a single boundary covering the territorial sea, the exclusive economic zone and the continental shelf. It is noteworthy that the Tribunal declared that the essential objective of its decision was to reach an equitable solution within the context of articles 74, paragraph 1, and article 83, paragraph 1, of the United Nations Convention on the Law of the Sea. 16/

Libyan Arab Jamahiriya

19. On 3 June 1985, the International Court of Justice handed down its judgement in the case concerning the continental shelf between Libyan Arab Jamahiriya and Malta. The Court was requested to decide what principles and rules of international law were applicable to the delimitation of the continental shelf between Malta and the Libyan Arab Republic, and how in practice such principles and rules can be applied by the two States.

20. In its judgement, the Court stated what principles and rules of international law were applicable to the delimitation of the continental shelf between the two States and the circumstances and factors to be taken into consideration in order to achieve an equitable delimitation. Accordingly, in this case, it declared that an equitable result should be obtained first by drawing between the 13° 50' and the 15° 10' meridians a median line, of which every point is equidistant from the low water mark of the relevant coasts of Malta, on the one hand, and of the Libyan Arab Jamahiriya, on the other, and by then transposing this line northward by 18' and as to intersect the 15° 10' E meridian at a latitude of approximately 34° 30' N. 17/

21. In its decision, the Court made some significant observations on the consequences for the delimitation of the continental shelf between States of the adoption of the concept of the exclusive economic zone as embodied in the United Nations Convention on the Law of the Sea. The following is a brief synopsis of these observations.

22. The Court noted that, although the case related only to the delimitation of the continental shelf and not to that of the exclusive economic zone, the principles and rules underlying the latter concept could not be left out of consideration. The Court stated that, as the 1982 Convention demonstrated, the two institutions - continental shelf and exclusive economic zone - were linked together in modern law. Since the rights enjoyed by a State over its continental shelf would also be possessed by it over the sea-bed and subsoil of any exclusive economic zone which it might proclaim, one of the relevant circumstances to be taken into account for the delimitation of the continental shelf of a State was the legally permissible extent of the exclusive economic zone pertaining to that State. It added that this did not mean that the concept of the continental shelf had been absorbed by that of the exclusive economic zone; it did, however, signify that greater importance was to be attributed "to elements, such as distance from the coast, which are common to both concepts". 18/

23. A further implication noted by the Court was that since the development of the law enabled a State to claim that its continental shelf extended up to as far as 200 miles from the coast, "whatever the geological characteristics of the corresponding sea-bed and subsoil", there was no reason to ascribe any role to geological or geophysical factors within that distance, either in verifying the legal title of the State concerned or in proceeding to a delimitation as between their claims. 19/

24. In this connection, the Court made some significant comments on the role of natural prolongation on the delimitation of maritime areas. It observed that:

> "the idea of natural prolongation was not superseded by distance. What it did mean was that where the continental margin did not extend as far as 200 miles from the shore, natural prolongation, which in spite of its physical origin has throughout its history become more and more a complex and juridical concept, is in part defined by distance from the shore, irrespective of the physical nature of the intervening sea-bed and subsoil." 20/

25. As the law now stands, each coastal State is entitled to exercise sovereign rights over the continental shelf off its coasts for the purpose of exploring and exploiting its natural resources up to a distance of 200 miles from the baselines - subject of course to delimitation with neighbouring States - whatever the physical or geological features of the sea-bed within the area comprised between the coast and the 200-mile limit. 21/

26. The Court, however, warned that the introduction of the criterion of distance did not have the effect of establishing a principle of "absolute proximity" or of conferring upon the equidistance method of delimitation the status of a general rule, or an obligatory method of delimitation, or of a priority method to be tested in every case. It further observed that the fact that, in the circumstances of the case, the drawing of a median line constituted an appropriate first step in the delimitation process did not mean that an equidistance line will be an appropriate beginning in all cases, or even in cases of delimitation with respect to States with opposite coasts. 22/

27. The Court, as it has done before, 23/ did not consider that "a delimitation should be influenced by the relative economic position of the two States in question, in such a way that the area of continental shelf regarded as appertaining to the less rich of the two States would be somewhat increased in order to compensate for the inferiority in economic resources". 24/

28. The International Court of Justice has continued to endorse the relevant provisions of the 1982 Convention and to develop in particular the jurisprudence relating to the delimitation of maritime areas by investing the delimitation provisions of the Convention with a specific content.

IV. OTHER DEVELOPMENTS RELATING TO THE LAW OF THE SEA

A. Peaceful uses

29. There has been a growing tendency in the international community to promote the peaceful uses of the oceans. Indeed the peaceful uses of the oceans is a fundamental objective of the Convention on the Law of the Sea. In addition to the Convention, there has been a number of multilateral treaties and instruments which have the same objective. Among them are the Antartic Treaty (1959), the Treaty Banning Nuclear Weapon Tests in the Atmosphere, In Outer Space and Under Water (Partial Test Ban Treaty) (1963), Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) (1967), the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof (Sea-Bed Treaty) (1971) and the various proposals to establish nuclear weapon-free zones and zones of peace. Most of these instruments cover land territories as well as large areas of oceans.

30. Naval arms race. More recently the General Assembly itself has requested a comprehensive study on the naval arms race, on naval forces and naval arms systems, including maritime nuclear-weapons systems, with a view to analysing their possible implications for international security, for the freedom of the high seas, for international shipping routes and for the exploitation of marine resources, thereby facilitating the identification of possible areas for disarmament and confidence-building measures. This study has been transmitted to the General Assembly at its fortieth session in the report of the Secretary-General (A/40/535, annex).

31. The study accords great weight to the impact of the United Nations Convention on the Law of the Sea on the strategic uses of the seas and contains a comprehensive review of the provisions of the Convention which may affect maritime activities and naval operations. It observes that the use of naval forces in the exercise of sovereign rights is legitimate. However, there are sometimes conflicts of interest between naval activities and non-military uses of the sea, just as there are conflicts between latent security threats and the freedom of navigation. It urges that naval activities should take account, inter alia, of the legitimate interests of coastal States and that it is important that such activities should be compatible with the provisions of the Convention.

32. The study observes that, in the context of naval activities, the early entry into force of the Convention on the Law of the Sea will give strong additional support to the security régime at sea. It therefore encourages its early entry into force and its full implementation.

33. The study notes that the new law of the sea increases the national responsibilities of coastal States and consequently increases the need of many of those States to develop naval capabilities; but it warns, however, that the widened national responsibilities should not be misused as a justification for the expansion and utilization of naval force.

34. The South Pacific Nuclear Free Zone Treaty. A recent example of the continuing trend to promote the peaceful uses of the oceans is the South Pacific Nuclear Free Zone Treaty. This instrument was adopted by the South Pacific Forum at Raratonga, Cook Islands, on 6 August 1985 and will enter into force when eight instruments of ratification have been deposited. The nuclear-free zone established by the Treaty extends from the western shores of the Australian continent to the western coast of the Latin American continent. It stretches north to the equator and south to Antarctica. Thus it abuts on the nuclear-weapon-free zones of Latin America and Antarctica.

35. The Treaty prohibits the use, testing or stationing of nuclear explosive devices in the South Pacific. It leaves to each signatory State the right to decide for itself such questions as access of foreign vessels or aircraft to its ports and airfields. The rights of States under international law with regard to freedom of the high seas remain unaffected by the Treaty. Finally, it prohibits ocean dumping of nuclear wastes in the region.

36. There are three protocols to the Treaty: the first invites France, the United States of America and the United Kingdom of Great Britain and Northern Ireland to apply key provisions of the Treaty to their South Pacific territories; the other two invite the five nuclear-weapon States not to use or threaten to use nuclear weapons against Parties to the Treaty and not to test nuclear explosive devices within the zone. These protocols have not yet been adopted.

B. Maritime law

1. Maritime safety and navigation

37. Work has continued in the International Maritime Organization (IMO) with a view to amending the 1974 International Convention for the Safety of Life at Sea and the 1966 Load Line Convention and adopting a new convention to replace the 1910 Convention on Salvage and Assistance at Sea. A conference is envisaged in 1988 for the first two of these projects. The IMO Legal Committee is continuing its preparation of a draft revision of the Salvage Convention. This involves matters of both private and public law. In this connection, it may be noted that, inter alia, a proposal to provide special compensation to a salvor who has carried out specific preventive measures to protect the environment is under consideration. The fourteenth session of the IMO Assembly has adopted a number of

recommendations relating to maritime safety. These include guidelines for vessel traffic services. New and amended routeing systems other than traffic separation schemes have been adopted, subject to confirmation by the Assembly.

2. Rescue at sea and piracy

38. On 22 June 1985, the 1979 International Convention on Maritime Search and Rescue entered into force. Its main purpose is to facilitate co-operation between search and rescue (SAR) organizations and between those participating in SAR operations at sea by establishing the legal and technical basis for an international SAR plan. An annex to the Convention contains the technical requirements for ensuring the provision of adequate maritime SAR services off the coasts of the States Parties. The delimitation of SAR regions is established by agreement among the Parties. The Convention states that Parties should authorize immediate entry into their territorial sea of rescue units from other Parties solely for the purpose of search and rescue. The Convention also provides that ship reporting systems should be established where necessary to facilitate SAR operations. It is envisaged that a global maritime distress and safety system will be developed to support the SAR plan prescribed in the Convention. In this area IMO works closely with International Telecommunication Union (ITU), World Meteorological Organization (WMO), and INMARSAT (International Maritime Satellite). IMO has also developed a format for a ship reporting system and two manuals on search and rescue, the provisions of which are co-ordinated with the International Civil Aviation Organization (ICAO).

39. The principle of the duty to render assistance to persons in distress at sea which is embodied in the Convention on the Law of the Sea (art. 98) has special importance in relation to the rescue of asylum-seekers. The number of rescues made has decreased significantly in the past two years, thus giving greater importance to Rescue at Sea Resettlement Offers (RASRO) scheme of the Office of the United Nations High Commissioner for Refugees (UNHCR). In addition to the efforts of UNHCR, IMO keeps under continuing review information and proposals relevant to the rescue of asylum-seekers in distress at sea. Most recently the IMO Council in June 1985 expressed full support for the objective of promoting appropriate humanitarian measures to assist or rescue persons in distress at sea and adopted a decision urging Governments, organizations and ship owners concerned to intensify their efforts in ensuring that the necessary assistance is provided to any person in distress at sea. The Secretary-General of IMO is directed to continue consultations with all appropriate bodies of the United Nations, including UNHCR, in order to further these objectives.

40. Piracy and armed robbery against ships is of particular concern in such areas as west Africa, the Malacca Straits and the South China Sea. While there has been an encouraging decline in the percentage of boats attacked in the South China Sea the level of violence associated with such attacks has remained high. Under the Anti-Piracy Arrangements established by the Royal Thai Government, which has now been extended for a third year through the co-operation of a number of donor Governments, continuing efforts are being made including preventive sea and air patrols, follow-up investigation and prosecution of suspects and nation-wide registration of fishing boats. IMO and UNHCR also maintain close contacts on these questions, and IMO continues to study both rescue at sea and anti-piracy problems.

3. Conditions for registration of ships

41. The United Nations Conference on Conditions for Registration of Ships (United Nations Conference on Trade and Development (UNCTAD)) held the third part of its session in July 1985. At the fourth part, scheduled for 20 January to 7 February 1986, the Conference can be expected to finalize and adopt an international agreement concerning the conditions under which vessels should be accepted on national shipping registers. The outcome of this Conference is of direct relevance to the implementation of articles 91, 92 and 94 of the United Nations Convention on the Law of the Sea.

42. The principle according to which there must exist a genuine link between a ship and the State whose flag it flies is embodied in article 91 of the Convention. This article states moreover that each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag. Article 94 of the Convention deals with the duties of the flag State with regard to vessels flying its flag and, in this respect, the Convention establishes international norms for the exercise of jurisdiction and control by flag States.

43. Although article 91 gives certain flexibility to a State to establish the conditions, it does, however, leave unresolved the issue as to what exactly are the elements which constitute the genuine link between a State and a vessel for the State to exercise effectively its jurisdiction and control in compliance with article 94. The Conference is attempting to resolve the issue by giving content at the international level to the notion of a genuine link. Such an international agreement would be complementary to the Convention on the Law of the Sea by establishing the minimum conditions for registering of ships without affecting the right of individual States to actually fix these conditions.

44. The Conference made considerable progress at the third part of its session and arrived at an agreed text on the contentious issues of national participation and management, manning and ownership of ships. These had been some of the most difficult areas in the negotiations: firstly, in view of the widely divergent interpretations between different countries or groups of countries of the concept of the genuine link and, secondly, in view of the very different systems and legislative provisions in this regard which exist in different countries with different economic systems.

4. Maritime labour law

45. The International Labour Office (ILO) is preparing for a Preparatory Technical Maritime Conference in 1986 and a full Maritime Session of the International Labour Conference in 1987. It is expected that these meetings will result in the adoption of new or revised international labour Conventions and Recommendations in 1987 on the following subjects: health protection and medical care for seafarers; seafarers welfare at sea and in ports; repatriation of seafarers; and social security protection for seafarers, including those serving in ships flying flags other than those of their own country.

46. Offshore industrial installations. The ILO Committee of Experts on the Application of Conventions and Recommendations, is examining the application by States of ILO Conventions to fixed and mobile installations used in the exploration and exploitation of offshore mineral and petroleum resources. 25/ The Committee observed that reports from 53 Governments and a number of employers' or workers' organizations have revealed a variety of situations and a differing legislative approach to the problems raised by such installations, particularly in respect of an overlap of maritime law and land-based law. As to the legal nature of offshore installations, some countries make a distinction in their legislation as between mobile and fixed installations, which as a result are subject to different regulations: mobile installations where defined as ships are thus subject to maritime legislation; fixed installations where regarded as land-based installations are thus subject to legislation determined on a case-by-case basis. In addition, there is a divergent approach in respect of jurisdiction, notably in cases where mobile installations are regarded as ships: some countries regard their legislation as applicable to offshore installations operating in their maritime zones, regardless of their nationality; others consider that the primary jurisdiction, even in their own territory, is that of the flag State, so that the responsibility for the application of ILO Conventions rests with the State where the craft is registered.

47. The ILO Joint Maritime Commission in September 1984, as noted in the report of the Secretary-General (A/39/647 and Corr.1), had adopted a resolution requesting that a study be undertaken together with IMO to determine which mobile units would be classified as ships and suggesting that there be an expert review of occupational safety, health and working conditions on board maritime mobile offshore units. The ILO Governing Body, at its February-March session in 1985, has since requested that a preliminary study be undertaken with a view to determining the main problems which should be examined in this very complex field.

48. The Committee of Experts has stated that it considers problems concerning the legal status of offshore industrial installations, the legislation applicable to workers thereon, the type of jurisdiction exercised by States over these installations, and the possible obligations arising from the licensing of the installation for the purposes of exploration and exploitation, to be of far-reaching consequence. The legal uncertainties revealed and the resulting lack of uniformity in the legislative approach to the problem may have adverse effects on the application of international labour conventions. Consequently, the possible adoption of standards on the conditions of work in offshore industrial activities will still require detailed legal analysis of such problems as have been outlined above. The Committee has once again, therefore, invited Governments to continue sending information on all those matters that will help clarify the legal questions involved.

49. Considering the relationship of many of these questions to provisions of the Convention on the Law of the Sea particularly articles 60 and 80, the Office of the Special Representative of the Secretary-General for the Law of the Sea has offered its advice and assistance to the ILO.

50. The ILO Committee has also stated that extensive research is needed into the actual conditions prevailing in these offshore activities, and that information on safety and health protection measures will be particularly useful. In this respect, it may be noted that the tripartite ILO Petroleum Committee will meet in April 1986 and will be examining developments and problems in the offshore petroleum industry, in particular in the fields of occupational safety and health and manpower planning.

C. Environmental law

1. Prevention and control of marine pollution from ships

51. MARPOL 73/78. The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78), now covers more than 80 per cent of the world's merchant tonnage and is in force with 38 States parties. Amendments to the Convention, adopted in 1984, will enter into force on 7 January 1986.

52. The IMO Council at its fifty-fourth session noted the views and suggestions made on the adequate provision of reception facilities in ports (see art. 211 (6) (a) of the Convention on the Law of the Sea). IMO is to draw the attention of Governments to the fact that the provision of necessary reception facilities for oil and chemical residues is essential for the successful implementation of MARPOL 73/78.

53. Civil liability and compensation. The 1984 Protocols amending the International Convention on Civil Liability for Oil Pollution Damage, 1969, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, remain open for signature and ratification, and each has been signed by nine States. The 1984 Protocols increase liability limits for oil spill damages contained in the original conventions, extend the application of the conventions to a limit of 200-miles, cover the costs of preventive measures and restoration, and add new categories of vessels.

54. The IMO Legal Committee has under consideration a possible new convention on liability and compensation for damage in connection with the carriage of noxious and hazardous substances by sea.

2. Prevention and control of marine pollution from dumping

55. London Dumping Convention. 26/ The Ninth Consultative Meeting of 60 Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Dumping Convention (LDC), 1972), held in September 1985, adopted revised criteria for the allocation of substances to the annexes of the Convention including the Guidelines which supersede the existing Guidelines (LDC V/12, annex 2). 27/ The meeting also dealt with incineration at sea (see also para. 70), monitoring and relations with other organizations,

especially the United Nations Environment Programme (UNEP) and the Intergovernmental Oceanographic Commission (IOC). It considered other matters, including environmental hazards caused by the disposal at sea of persistent substances such as plastics and other persistent synthetic materials (including fishing nets). It concluded that the deliberate disposal of ship-generated wastes, whether or not such deliberate disposal is covered by annex V of MARPOL 73/78 28/ or constitutes dumping under the London Dumping Convention, is none the less against the purposes of the Convention.

56. The Consultative Meeting also examined the problem of the import and export of hazardous wastes for disposal at sea 29/ and means to establish further control and to provide information needed on such transfrontier shipments. While the subject of transfrontier shipment of wastes has much broader implications than dumping at sea, the Consultative Meeting considered it desirable to evaluate the overall question in order to identify those areas that have direct relevance to dumping.

57. While the London Dumping Convention deals specifically with the deliberate disposal of wastes at sea, it is becoming increasingly necessary for States to find ways and means of providing for regular review of waste disposal options in general. The London Dumping Convention Task Team 2000, in its report to the Contracting Parties recommended the calling of special conferences or symposia to review periodically specific waste or waste treatment and disposal techniques.

58. Dumping of radioactive wastes at sea and into the sea-bed. The Ninth Consultative Meeting examined the report of an Expert Scientific Panel set up to examine the dumping at sea of radioactive wastes. After consideration of the report and detailed discussion as to whether its suspension on dumping should be continued, 30/ the Consultative Meeting decided to maintain the suspension of all dumping at sea of radioactive wastes and other matter to permit time for further studies and assessments, including that of the option of land-based disposal, and called upon Contracting Parties, inter alia, to develop procedures for the assessment of liability regarding State responsibility for damage to the environment of other States or to any other area of the environment resulting from such dumping.

59. With regard to disposal into the sea-bed of high-level radioactive wastes, the Consultative Meeting agreed to defer further consideration of this matter to its next meeting. The Nuclear Energy Agency of the Organisation for Economic Co-operation and Development (OECD/NEA) reported to the Contracting Parties that the first phase of research to assess the feasibility of disposal of high-level radioactive wastes beneath the ocean floor was scheduled for completion in 1988 and that there was no plan for the time being to carry out any experiment involving the emplacement of such wastes into the sea-bed.

60. The International Atomic Energy Agency (IAEA) is entrusted by the London Dumping Convention with the elaboration of criteria for defining high-level radioactive waste unsuitable for dumping at sea; the Convention also requires IAEA to provide recommendations for the dumping of low-level radioactive waste. A new revised definition of high-level radioactive wastes or other high level radioactive matter unsuitable for dumping at sea, with recommendations for the issue of special

permits for the dumping of low-level radioactive wastes, was transmitted to the Ninth Consultative Meeting and will be considered at the Tenth Consultative Meeting in October 1986.

61. The revised definition of radioactive material unsuitable for dumping at sea has been formulated, in part, in qualitative terms and, in part, in numerical terms, based on the principles of radiation protection and scientific modelling. They provide guidance on the nature and quantities of radioactive waste that may be dumped at any given dumping site, under the provisions of the London Dumping Convention, together with guidance on dumping procedures.

62. Implications of the Convention on the Law of the Sea for dumping instruments. The Contracting Parties to the London Dumping Convention decided that at the Tenth Consultative Meeting they will examine the relationship between the requirements of that Convention and the Convention on the Law of the Sea. This work had been started in 1975 and again in 1981, but was set aside to be taken up following the adoption of the Convention on the Law of the Sea. It will be recalled that the 1972 London Dumping Convention did not specify, in view of the convening of the Third United Nations Conference on the Law of the Sea, the limits of the area in which a State has the right to apply the provision against foreign vessels. Article XIII of that Convention reads as follows: "Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claim and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction. The Contracting Parties agree to consult at a meeting to be convened by the organization after the Law of the Sea Conference, and in any case not later than 1976, with a view to defining the nature and extent of the right and responsibility of a coastal State to apply the Convention in a zone adjacent to its coast." The Contracting Parties will also be giving attention, inter alia, to article VII (3) by which they agree to co-operate in the development of procedures for the effective application of the Convention on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Convention. The Consultative Meeting has agreed that this matter should be considered in conjunction with article XIII of the Convention. The Office of the Special Representative of the Secretary-General for the Law of the Sea will be co-operating with IMO's LDC secretariat on this examination of the relationship between the London Dumping Convention and the United Nations Convention on the Law of the Sea.

63. The Oslo Commission has studied the possible implications of the provisions of the Convention on the Law of the Sea for the 1972 Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Oslo Convention) which is a regional instrument. 31/ The Commission considered that, for the most part, the two Conventions were compatible and that such minor differences as existed did not justify any amendment of the Oslo Convention. In considering the provisions of article 210 (5) of the Convention on the Law of the Sea the Commission pointed out that the Convention provides a legal framework which requires specific implementation by national legislation. The Parties to the Oslo Convention could therefore enact legislation applying the rules of that Convention to their

respective exclusive economic zones. It was recognized that it might be desirable to amend the Oslo Convention in this respect at an appropriate future date: for example, an amendment to its article 15 (1) could be made to reflect the extension of the jurisdiction of coastal States to the exclusive economic zone and its article 2 might be amended to mention expressly the provisions relating to the exclusive economic zone.

64. The Oslo Commission has also studied article 60 of the United Nations Convention on the Law of the Sea which, inter alia, requires abandoned or discarded off-shore platforms to be removed in such a way as to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. It may be noted that the definition of dumping provided for in article 1 of the Convention on the Law of the Sea includes deliberate disposal of such platforms whereas the Oslo Convention does not expressly include such disposal. The Commission considered, however, that since the provisions of Annex II to the Oslo Convention concern the dumping of bulky wastes and that the practice is to issue permits for such dumping, it could be concluded that the dumping of platforms into the sea was within its competence. It thus agreed that all Parties should consult with their national legal experts as to whether the provisions of the Oslo Convention could be construed as controlling the dumping of platforms or whether a specific amendment is desirable. The Commission agreed that its concerns about future disposal of platforms should also be addressed to the appropriate IMO body. The Oslo Commission will take up the question of whether or not to prepare an explicit recommendation on the dismantling and removal of platforms at its twelfth meeting in 1986.

3. Prevention and control of marine pollution from land-based sources

65. While marine pollution from ships and from dumping at sea are regulated by global conventions and several regional instruments, marine pollution from land-based sources is regulated only on a regional basis (for example, the 1974 Paris Convention, the 1976 Barcelona Protocol and the 1981 Lima Protocol). Work at the global level was initiated by UNEP in 1981 within the framework of its programme for the development and periodic review of environmental law. Basic questions have been addressed concerning the challenge of identifying and selecting criteria for designating substances which are potentially harmful to the marine environment and criteria which should be used to decide on how such a substance might be managed in the marine environment. The most favoured approach to date has been a black/grey list approach. With respect to land-based sources, concerns over how agreement can be reached on which substances belong to what list has prompted detailed consideration of possible alternative approaches such as water-quality criteria and assimilative capacity.

66. The ad hoc Working Group of government-nominated experts set up for the purpose completed its work on 19 April 1985 with the adoption of the "Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-Based Sources". These include three technical annexes: Strategies for protecting, preserving and enhancing the quality of the marine environment;

Classification of substances; Monitoring and data management. The Guidelines were prepared on the basis of common elements and principles drawn from relevant existing agreements (including Part XII of the United Nations Convention on the Law of the Sea), and drawing upon experience gained in their preparation and implementation. The UNEP Governing Council, by decision 13/18/II, encouraged "States and international organizations to take the Montreal Guidelines into account in the process of developing bilateral, regional and, as appropriate, global agreements in this field".

4. Prevention and control of marine pollution from sea-bed activities subject to national jurisdiction

67. The Governing Council of UNEP, by decision 13/18/IV (1985), took note of the progress report prepared on the use that has been made of the conclusions and guidelines prepared by the UNEP Working Group of Experts on Environmental Law, and authorized the Executive Director to transmit the report (UNEP/GC.13/9/Add.1) together with any comments made by delegations thereon to the General Assembly at its fortieth session. The Council called on "Governments to make use of ... the conclusions of the study of the legal aspects concerning the environment related to off-shore mining and drilling within the limits of national jurisdiction undertaken by the Working Group of Experts on Environmental Law, as guidelines and recommendations in the formulation of bilateral or multilateral conventions ..."

5. Regional seas conventions and protocols

68. On 21 June 1985, the Convention for the Protection, Management and Development of Marine and Coastal Environment of the Eastern African Region was adopted at Nairobi, together with a Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, and a Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region. The Convention and Protocols will enter into force after six ratifications have been deposited with the Government of Kenya.

69. This new Convention and its Protocols bring the number of conventions and protocols adopted within the framework of the UNEP's Regional Seas Programme to a total of 20. 32/ Further agreements are now in preparation for the South Pacific by the South Pacific Regional Environmental Protection (SPREP), which is under the auspices of UNEP, the Economic and Social Commission for Asia and the Pacific (ESCAP), the South Pacific Commission and the South Pacific Bureau for Economic Co-operation. In addition to the proposed convention relating to the protection of the natural resources and environment of the South Pacific region, there are also two proposed protocols for the prevention of pollution of the South Pacific region by dumping (see para. 35 above) and for combating emergencies from pollution by oil and hazardous substances.

70. The Third Intergovernmental Meeting of the Action Plan for the Caribbean Environmental Programme (April 1985) adopted a resolution on "Dumping and incineration of hazardous wastes and toxic substances in the Wider Caribbean

Region", which emphasized the Meeting's commitment to international agreements and its opposition to incineration of wastes which do not conform to international standards and urged countries to observe the provisions of international agreements on carriage, handling and disposal of hazardous wastes and toxic substances at sea.

D. Fisheries management and development

71. The concept of the exclusive economic zone (EEZ) embodied in the 1982 United Nations Convention on the Law of the Sea has become an essential factor in fisheries management and development. The 1984 FAO World Fisheries Conference created new awareness of the present and potential role of fisheries and of the contribution they make to national self-sufficiency in food production and to food security. The work of the Conference has brought new attention to fisheries from national authorities at the highest level, including those of donor countries, and from international institutions including the financial institutions.

72. Follow-up to the 1984 World Conference on Fisheries Management and Development. The Conference had endorsed a Strategy comprising well-considered guidelines and principles for fisheries management and development. The Strategy recognizes that the applicability of the new law of the sea has been generally accepted with regard to the right of coastal States to manage fisheries within their jurisdiction. The principles and guidelines in the Strategy take full account of national sovereignty, providing enough flexibility to meet the particular requirements of individual countries. The Strategy does not intend to re-open issues already settled at the Third United Nations Conference on the Law of the Sea. It is without prejudice to the provisions of the Convention on the Law of the Sea.

73. The World Conference also adopted a comprehensive and integrated package of five programmes of action, complementing the EEZ Programme of the Food and Agriculture Organization of the United Nations (FAO). These provide the framework for development assistance, not only for that provided by FAO but also by multilateral and bilateral agencies, by regional organizations and by FAO Member States themselves. The programmes are to be implemented at interregional, regional and sub-regional levels in order to facilitate co-ordination of fisheries development. The 1984 Conference also adopted a number of resolutions concerning specific aspects of fisheries management and development.

74. The Strategy and programmes of action have been endorsed by the General Assembly at its thirty-ninth session, and by the FAO Regional Conferences for Africa and for Latin America and the Caribbean. The FAO regional fisheries bodies have examined the practical implications of their implementation. The first Plenary meeting of Fisheries Ministers to the Latin American Organization for Fisheries Development (OLDESPESCA, set up in November 1984) has also endorsed the results of the 1984 Conference. Two major seminars (sponsored by India and Spain) have provided forums for further examination of selected issues. The European Parliament has adopted (April 1985) a resolution requesting the European Economic Community (EEC) 33/ to co-operate fully with FAO in implementing the Strategy and Programmes of Action and to integrate its own efforts to promote fisheries in

developing countries with measures taken or proposed by FAO and other organizations. The sixteenth session (April 1985) of the FAO Committee on Fisheries (COFI) has made various proposals on the implementation of the Strategy and Programmes which were endorsed by the FAO Council in June 1985. These decisions primarily concern the preparation of periodic progress reports, by Governments and FAO, and also covering activities outside the framework of FAO. The first such progress report is scheduled for early 1987, for submission both to COFI and the governing bodies of FAO.

75. Other follow-up activities include:

(a) An Expert Consultation on Fishing Vessel Marking which was held under the auspices of Canada, in February 1985, recommended the use of the ITU Radio Call Signs (IRCS) without prejudice to international conventions or national practices or requirements. Further consultations will be held with a view to possible adoption of a standardized marking system;

(b) COFI has established a Sub-Committee on Fish Trade, open to all member States of FAO, which will provide the desired forum for consultations on the technical and economic aspects of international trade in fish and fishery products, including pertinent aspects of production and consumption. A related development is the Regional Fish Marketing Information Service for Africa (INFOPECHE) which has recently become operational. Also of note is the proposal to convene a Conference of Plenipotentiaries to adopt an agreement for the establishment of an intergovernmental organization for marketing information and advisory services for fisheries products in the Asia and Pacific Region (INFOFISH) which has been endorsed by Indo-Pacific Fisheries Committee (December 1984). These systems relate also to FAO's new computerized Fish Market Indicator System (GLOBEFISH) containing information concerning markets for important fishery commodities and trends in international trade.

76. There has been a net increase in the resources proposed for fisheries in the work of the Organization in 1986/87 which should strengthen FAO's technical capacity to implement the Strategy and the programmes. In that connection, COFI has emphasized, inter alia, the importance of strengthened activities in the assessment of stocks occurring within the EEZs of two or more States, of multi-species stocks and of tuna resources. The biennial programme continues to provide for assistance to countries on fisheries legislation, on access agreements, joint venture policies and agreements and on means of regional co-operation in fisheries.

Major emphases in regional fisheries bodies

77. The discussions in recent meetings of FAO and other regional fisheries bodies emphasize both the benefits to be derived by developing countries from a collective approach at regional and sub-regional levels, and the need for co-operation between developing coastal States and those developed distant-water fishing countries which possess appropriate technical experience and capabilities.

78. The Fishery Committee for the Eastern Central Atlantic (CECAF), for example, has recommended that member States of the region and other States, including those which are not members but which fish in the region, as well as regional organizations, such as EEC, contribute to the technical and financial support of its activities either directly or by harmonizing bilateral programmes with the regional programme. 34/ The majority of coastal States in the West African region still require substantial assistance to enable them to derive maximum benefit from the fishery resources in their EEZs. They need to develop national capabilities to tackle effectively the problems of fisheries management and development in line with the Strategy and programmes of the 1984 Conference. FAO is thus developing a programme of training designed to upgrade national capabilities.

79. A new convention was adopted in 1984 establishing a Regional Fishery Commission for the Gulf of Guinea. Under this convention the Parties undertake to promote co-operation in fisheries matters among themselves and to co-ordinate conservation, management and exploitation of marine living resources with special reference to shared stocks within the area of the convention. Co-operation will address in particular the following matters: (a) determining a concerted attitude towards the activities of both national and foreign vessels (including a system of international control applicable throughout the area of the Convention); (b) harmonizing national fishery legislation in order to attain uniformity; (c) promoting harmonious development of fisheries, with particular emphasis on training, conduct of scientific research and the protection of the marine environment; (d) adopting a common fishery policy in selected sectors; and (e) considering the granting of reciprocal fishing rights in their respective exclusive economic zones.

80. In the Western Central Atlantic, WECAFC has stressed harmonization and co-operation in matters relating to fisheries and has proposed various projects as a result, for example, development of national legislation on the control of marine pollution (under the UNEP Caribbean Environment Programme) and for training of fishery lawyers and administrators.

81. In the Indian Ocean, there has been a rapid growth in the potential of fisheries, particularly as regards tuna (see paras. 85 to 87). Since participation by coastal States in fisheries depends on local efforts as well as on the efforts and development policies of individual Governments, FAO is promoting the sharing of experience and seeking to accelerate its assistance to countries in the region in acquiring information on the most efficient techniques for expanding the resources. The growth in activities in the Indian Ocean is reflected in the fact that the region is currently receiving the largest share of donor contributions for the implementation of the FAO 1984 programmes of action.

82. In the South Pacific, the recommendations of the South Pacific Forum Fisheries Agency on harmonization and co-ordination of fisheries régimes and access agreements 35/ are being implemented within national legislation and in the access agreements with distant-water fishing nations. There is thus a growing collective strength in the region, and greater benefits have been secured from the activities of foreign fishing vessels. The Agency has played a major role in helping its members maximize their economic returns from their exclusive economic zones,

particularly from foreign licences, but also by providing market intelligence, assisting in access negotiations and by co-ordinating a regional approach in dealing with distant-water fishing nations. As many of its member countries are small and have limited resources, the Agency maintains a comprehensive data base on international fisheries and has established a regional register of fishing vessels to assist with enforcement, which has been successful in obtaining compliance by vessels fishing illegally. The Agency is also increasing the support it gives its members in the development of their national fishing operations, including training in all aspects of exclusive economic zone management.

83. In the South Pacific, the Permanent Commission for the South Pacific (SPPC) has devoted particular attention to the question of increasing trans-oceanic co-operation among all Pacific Basin countries. Areas of proposed co-operation include law of the sea and marine sciences, common policies on protection of the marine environment and conservation of living resources.

84. With regard to fishing in the Southern Ocean, the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) was elaborated in 1980 by the parties to the Antarctic Treaty. This Convention establishes a Commission which is charged with the conservation of marine living resources south of the Antarctic convergence in accordance with a unique ecosystem approach. The Commission took its first conservation measures in 1984 by closing certain waters to fishing and establishing minimum mesh sizes, and has adopted further measures and recommended fishing practices this year. Several working groups are also involved in assessing data on various fish species within the Convention area.

Recent developments in respect of highly migratory species

85. In the Indian Ocean there has been a rapid growth in tuna fisheries. Co-operation for tuna management and conservation between all parties concerned is essential in view of the highly migratory nature of these species. Article 64 of the Convention on the Law of the Sea recognizes the need for co-operation "with a view to ensuring conservation and promoting the objective of optimum utilization of such highly migratory species throughout the region".

86. The Indian Ocean Fishery Commission (IOFC) is giving particular attention to co-operation on research and statistics. The UNDP/FAO Indo-Pacific Tuna Development and Management Programme is being strengthened and will centre its activities in the Indian Ocean and South-East Asia. This realignment has been justified by the rapid growth of the purse seine fishery in the Indian Ocean. Another important project has been the FAO/Japan project for Investigation of Indian Ocean and Western Pacific Small Tuna Resources. In both projects, co-operation of both coastal countries and distant-water fishing nations is considered essential for the collection and compilation of the detailed data required for stock assessment purposes. This requirement was emphasized by IOFC at its last session (July 1985).

87. The members of IOFC have recognized that the situation in the Indian Ocean is unique in that the Commission includes a large number of developing coastal countries, accounting for about 45 per cent of the total tuna catches. This

special combination of interests and capabilities was recognized as requiring institutional arrangements appropriate to the region.

88. In the Atlantic, the International Commission for the Conservation of Atlantic Tunas (ICCAT) has been reviewing its tuna management measures, particularly as regards the problem of effective implementation in the eastern and central Atlantic.

89. The Permanent Commission for the South Pacific (SPPC) has been considering a draft convention on tuna for a large area of the east Pacific covering both waters under national jurisdiction and the adjacent high seas. The draft convention calls for the establishment of a new organization with the authority to determine the total allowable (TAC) catch for tuna in the area of the convention. 36/ Licences for fishing on the high seas would be issued by the secretariat of the organization in accordance with conditions set by a council. The convention would be open to all coastal States of the eastern Pacific and to States from other areas whose vessels are fishing for tuna and tuna-like species in the area.

90. In the South-west Pacific, a major part of the work of the South Pacific Commission (SPC), under its Tuna and Bill Fish Assessment Programme, is devoted to the collection of information on the rapidly expanding international fisheries in the area for tuna and other highly migratory species - the major fisheries resources of the region. Its principal activities are the establishment of a regional fisheries statistics system, to which all licensed industrial fishing vessels operating in SPC member countries are to provide catch and effort data, and assessment of interaction between fisheries, both between countries and between different fishing methods. A particularly important aspect of this work is the determination of the effects of the growing industrial fleet on the region's small-scale and subsistence fishermen. SPC has brought the coastal States and the distant-water fishing nations together to explore ways and means of improving data input to the SPC programme. Data for fisheries within the exclusive economic zones of SPC members from industrial-scale fishing vessels is generally complete; however, there is only limited data on fishing from a number of high seas areas in the SPC region. Furthermore, fisheries outside the SPC region interact with the regional fishery due to the highly migratory nature of the resource and data thereon is limited. There has thus been considerable discussion of the need for an organizational structure which would enable distant-water fishing nations to participate more actively in the SPC programme.

91. The South Pacific Forum Fisheries Agency (SPFFA) is currently assisting its members in negotiations with the United States Government on a multilateral fisheries access agreement on tuna, which would cover the combined exclusive economic zones of participating countries. There has been detailed discussion of terms and conditions of access and on enforcement rights of the coastal States and the flag States.

92. While tropical tuna in the South Pacific region appear to be harvested at sustainable levels, there has been serious concern about the depleted state of the southern bluefin tuna stock. Consistent with article 64 of the Convention on the Law of the Sea, trilateral negotiations have been taking place on a regular basis since 1983 between Australia, Japan and New Zealand on the future management of

this endangered resource. The three countries have agreed that catch limits will have to be adhered to and each has voluntarily taken action to this end. Agreement has yet to be reached on a legally binding management régime, however, and the negotiations are to continue.

Anadromous species

93. The new organization established by the 1983 Convention for the Conservation of the Salmon in the North Atlantic (NASCO) has undertaken as one of its first steps an analysis of catch statistics for salmon stock taken in rivers and areas of fishing jurisdiction of the six Parties. In the north Pacific, the United States-Canada West Coast Salmon Agreement, signed in January 1985, was ratified by both countries in March.

Marine mammals

94. The International Whaling Commission (IWC) in July 1985 established a Working Group to produce recommendations for the 1986 meeting of the Commission on the issuance of permits that allow the taking of whales for scientific research purposes. It also encouraged Governments to ensure that such scientific research conforms with research guidelines established by the IWC Scientific Committee and that it does not assume the characteristics of commercial activities.

E. Marine science, technology and ocean services

95. Marine science and technology development. The increasing depletion of traditional land-based resources of energy, food, materials and, for some countries, space and increased requirements for transportation has resulted in a significantly increased use of the oceans in the twentieth century. Technology designed to facilitate exploration and exploitation of the oceanic environment and resources of the coastal areas and beyond has correspondingly developed rapidly and continues to do so.

96. Some recent advances of note concern ocean floor mapping, underwater technology and improvements in navigation systems:

(a) More of the ocean floor can now be seen in greater detail. Ocean floor mapping has taken a tremendous leap forward with the use of seismic "swath-mapping" tools. These new side-scan sonar instruments can provide acoustic images of a broad swath of the sea-floor, extending up to a width of several kilometres from the survey vessels. These images are analogous to aerial photographs and are most useful in quickly mapping sea-floor surface features over large regions, for example, through the use of GLORIA (Geological Long Range Inclined Asdic) developed by the United Kingdom's Institute of Oceanographic Sciences, a plan view can be obtained of wide expanses of sea-floor of the exclusive economic zone - from 150 metres water depth to the deepest part in the trenches;

(b) Equally significant has been the development of greater mobility under water and for longer periods of time. For example, ROVs (remotely operated vehicles) can retrieve objects at depths of 6,500 m like the black box of the Air India jumbo jet that crashed in July 1985, assist in repairs of underwater cables and photograph the liner "Titanic" in 4,000 m of water. A new French submersible, the Nautile, is able to operate over 97 per cent of the ocean floor to a depth of 6,000 m. In July of 1984 in the waters off Brazil, the offshore record of drilling 838 m into the sea-bed in 25 hours was set by a French semi-submersible. Following in the footsteps of the recently retired Glomar Challenger, Joides Resolution is now capable of drilling to depths of 9,000 m, deeper than has ever previously been possible;

(c) Improved navigation systems enable more precise positioning of vessels. A new satellite navigation system (NAVSTAR-GPS) has been developed and is expected to be available and fully operational by 1986-1987. This system promises to improve present navigational capabilities dramatically, allowing continuous fixing of positions, anywhere, anytime, and to within a few metres.

97. Critical analysis and synthesis of available non-proprietary geological and geophysical data for the continental shelf and oceanographic areas as well as systematic compilation of ocean floor geological and geophysical and other thematic maps are necessary to provide a reliable basis for assessing marine mineral resources and providing exploration and development guidelines. The preparation of such maps is given high priority by the Committee for Co-ordination of Joint Prospecting for Mineral Resources in the Ocean Offshore Areas (CCOP) in the Indian Ocean region. CCOP has compiled a sedimentary basin map of the region on a scale of 1:5 million, co-operating with relevant national programmes and with the ongoing circum-Pacific map project.

98. Also of note is the recently established National Geophysical Data Centre (by the United States National Oceanic and Atmospheric Administration), which is developing, inter alia, a comprehensive data base and bibliography on marine mineral deposits of manganese nodules, phosphorites and polymetallic sulphites. It will provide current data on the formation, occurence, grade and abundance of these deposits. The bibliography is a searchable on-line system containing reference to both published and unpublished works.

99. Conduct of marine scientific research. The International Council for Exploration of Seas (ICES), whose area of competence is the Atlantic and adjacent seas with particular reference to the north Atlantic, now has under consideration the question of facilitating the conduct of marine scientific research in the exclusive economic zones of its 18 member countries.

100. Scientific investigation of the marine environment. The Intergovernmental Oceanographic Commission's (IOC) environmental work is carried out through the GIPME programme (Global Investigation of Pollution in the Marine Environment), one of the aims of which is to obtain the means of assessing the global effects of marine pollution. In this respect it may be noted that a new GESAMP Working Group has been established to prepare a new review of the health of the oceans. That review will use the results and conclusions of specialized scientific bodies as

well as data provided by relevant international and national programmes assessing the state of the oceans. The new group will also assess global and regional trends arising from ongoing and planned human activities that may affect the productivity of the oceans (on all trophic levels), the quality of ocean resources for human use and the integrity of the role of the oceans in the energy balance of the earth.

101. The Convention on the Law of the Sea, in article 204, provides the framework for monitoring the risk and effect of pollution. In the case of GIPME, the monitoring work is done through two groups of experts on Methods, Standards and Intercalibration (GEMSI) and on Effects of Pollutants (GEEP). A plan is under development by GEMSI for a baseline study of the levels of selected metals in parts of the Atlantic, to be carried out in 1986. Such studies provide the data necessary for evaluating the health of the oceans. The work of GEEP is associated with that of developing guidelines for determining the sensitivity of specific areas to marine pollution. This activity is regulated by articles 194 (5) and 211 (6) dealing with special areas of the marine environment, and article 201 of the Convention on the Law of the Sea which calls for the establishment of appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practice and procedures.

102. Monitoring is particularly important for the effective application of dumping instruments. Indeed, the Ninth Consultative Meeting of Contracting Parties to the London Dumping Convention has recently agreed that it was important to clarify that the purpose of monitoring was to demonstrate that dumping activities were being carried out in compliance with the Convention. The IOC and the London Dumping Convention Parties will intensify co-operation on matters such as pollution monitoring and its requirements, effects studies, development of internationally accepted methods for pollution analysis, assessment of the health of the oceans and of the vulnerability of marine areas.

103. For the purposes of its new Revised Definition and Recommendations (see para. 61 above), and for its current consideration of the de minimis level of radioactivity below which substances can be regarded as non-radioactive for the purposes of the London Dumping Convention, IAEA has a particular interest in the coastal modelling work of GESAMP. That work is to evaluate the state of the art of coastal (including continental shelf) modelling relevant to waste disposal in such waters; to determine what parameters are site-specific and what are generic to a number of coastal situations; and to make recommendations as to the types of models appropriate for specific coastal situations.

104. Hydrography. Hydrographic surveying and nautical charting play an important part in many development programmes as well as being crucial for the safety of navigation. The International Hydrographic Organization (IHO) has recently conducted, in co-operation with the United Nations Department of Technical Co-operation for Development, a survey of the status of hydrographic surveying and nautical charting world wide. 37/ The survey includes details on some 60 out of 140 coastal States, as to whether or not national waters are adequately surveyed or require re-survey or are not surveyed. From the information obtained, it is apparent that an enormous amount of work is necessary to provide up-to-date nautical charts. Noted in particular was the low response rate to the IHO inquiry

from Africa and the Pacific, where there are very large exclusive economic zones, where sea-borne trade is vital and where capability in hydrographic surveying and nautical charting is at best minimal. The IHO survey concludes that large areas of continental shelves and exclusive economic zone waters are inadequately surveyed or not surveyed at all and that the majority of coastal States have little or no capability for carrying out even vital port or port-approach surveys or for publishing charts ensuring safety of navigation in waters under their jurisdiction or for mapping the sea-bed of their exclusive economic zones. 38/ There is little hope that States will be able quickly to remedy the situation given the high costs and time needed to create even an elementary hydrographic capability; IHO has consequently emphasized the need for a long-term plan to train personnel in basic skills and to utilize all possible applicable technology for hydrographic and charting operations.

105. The IHO is actively pursuing the development of new co-operative relationships with IMO and IOC in order to strengthen the acquisition and dissemination of modern hydrographic data and technical assistance to developing countries. Thus IMO has lent its strong support to the establishment of regional hydrographic commissions and charting groups 39/ since adequate hydrography surveying is particularly important in establishing traffic separation schemes. The joint IHO/IOC Committee for GEBCO (General Bathymetric Chart of the Oceans) has now proposed the establishment of an Ocean Mapping Unit, the objectives of which are to establish an international service for the provision of the best available maps of and related information on ocean floor morphology and other oceanographic parameters; to provide related educational and training facilities to meet the needs of the developing countries in the context of the Convention on the Law of the Sea; and to develop similar facilities for use on a national or regional basis. The Executive Council of IOC has also recently decided to create a consultative group on ocean mapping to keep under continuous review all ocean mapping activities of IOC.

106. Meteorological operations. The World Meteorological Organization's (WMO) operational activities over the world ocean continue to progress, in particular: the global collection and exchange of marine meteorological observations under the World Weather Watch Programme; the co-ordinated provision of meterological information under the Marine Meteorological Services Programme; and the world-wide collection and exchange of operational oceanographic data and the provision of relevant information under the Integrated Global Ocean Services System Programme. The major research project, "Tropical Ocean and Global Atmosphere (TOGA)", started in January 1985 to support the World Climate Research Programme, involves the deployment of multiple ocean observing systems such as drifting buoys, voluntary observing ships, research ships and satellites. WMO has advised the Special Representative of the Secretary-General for the Law of the Sea that all these activities are being carried out in an orderly manner and that no restrictive measures by any maritime State have been reported.

F. Resource development in the exclusive economic zone - general

107. The developments of an economic and technological nature are an essential component of developments relating to the Convention on the Law of the Sea. To the extent that such developments significantly impact on developments relating to the Convention, they have been included in the review under section IV of the present report. The existing and potential importance of the ocean sector for development and planning has been growing significantly, particularly following the adoption of the United Nations Convention on the Law of the Sea. Economic and Social Council resolution 1985/75, adopted by the Council on 26 July 1985, acknowledged that the resources of the ocean represent an important existing and potential contribution to the developmental process of States. It further noted that an increasing number of Member States, especially those that are developing countries, have embarked on activities designed to make full, rational use of the resources of the ocean, in particular in the exclusive economic zone. The concept of the exclusive economic zone and its implementation flow from the Convention. The Council further requested the Secretary-General to submit to it in 1987 a report that identifies specific and practical needs and problems encountered by countries, in particular developing countries, in the management of the exclusive economic zone and the development of its resources, as well as the types of activities and approaches to their implementation required for countries, with the support of the United Nations, to respond most effectively to those needs and problems, and to transmit to the General Assembly at its forty-second session the conclusions and recommendations of the Council. The conclusions and recommendations of the Council, in respect of the 1987 report, will indicate the response of Governments to developments of an economic and technical nature flowing from the Convention and, as such, will be reflected in the report of the Secretary-General to the Assembly on the developments relating to the Convention on the Law of the Sea.

V. THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEA-BED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

108. The Preparatory Commission met twice during 1985. It held its third session at Kingston, Jamaica, from 11 March to 4 April 1985, and a meeting at Geneva, from 12 August to 4 September. It has decided to hold its fourth regular session at Kingston, from 17 March to 11 April 1986, and to hold its summer meeting in 1986 at Geneva, Kingston or New York as it may decide. A three-day meeting of the Group of 77 will precede each meeting of the Commission.

109. An important development during the Geneva meeting was the adoption on 30 August 1985 by the Preparatory Commission of a Declaration (document LOS/PCN/72). This Declaration recalled, inter alia, the Declaration of Principles in General Assembly resolution 2749 (XXV) of 17 December 1970 proclaiming that the deep sea-bed and its resources are the common heritage of mankind, and that article 137 of the Convention on the Law of the Sea proclaims that "no state or natural or juridical person shall claim, acquire or exercise rights with regard to the minerals recovered from the Area except in accordance with Part XI of the Convention". It also expressed its "deep concern that some States have undertaken certain actions which undermine the Convention and which are contrary to the mandate of the Preparatory Commission".

110. The Declaration declared that:

"(a) The only régime for exploration and exploitation of the Area and its resources is that established by the United Nations Convention on the Law of the Sea and related resolutions adopted by the Third United Nations Conference on the Law of the Sea;

"(b) Any claim, agreement or action regarding the Area and its resources undertaken outside the Preparatory Commission which is incompatible with the United Nations Convention on the Law of the Sea and its related resolutions shall not be recognized."

111. The Declaration rejected "such claim, agreement or action as a basis for creating legal rights and regards it as wholly illegal".

112. The Declaration was adopted without a vote following an understanding between its sponsors, the Group of 77, and a number of other delegations on the text of the following statement which the Chairman read out at the time of the adoption:

"After consultation with delegations, it is my understanding that the draft declaration contained in document LOS/PCN/L.21 of 12 August 1985 commands a large majority in the Preparatory Commission. I, therefore, take it that consequently the draft declaration has been approved and has been adopted.

"I note that a number of delegations, while appreciating the preoccupation of that majority, could not give support to the declaration because of their concerns about some aspects of the substance and the effect of the declaration."

113. In the light of the adoption of the Declaration, the Group of Eastern European Socialist Countries did not press for a decision on its own draft resolution on the same subject (LOS/PCN/L.7/Rev.2) which had been originally tabled the previous summer at Geneva.

114. The plenary of the Commission and its four Special Commissions continued their work in accordance with their respective mandates as follows:

The plenary

(a) The implementation of resolution II

115. In order to complete the rules for the registration of pioneer investors, the plenary has still to address two issues. The first relates to the nature, composition and function of the group of technical experts to assist the Preparatory Commission in examining applications and the second concerns the confidentiality of data and information.

116. In the mean time, the question of overlapping claims has been the subject of consultations undertaken informally by the Chairman, especially with the three applicants whose application areas in the North-east Pacific Ocean overlap, namely France, Japan and the Union of Soviet Socialist Republics. India, which is also an applicant and which claims a site in the Indian Ocean, has no such conflicts. While it was possible to resolve provisionally the conflict between Japan and the Soviet Union, the overlap between France and the Soviet Union created particular problems for the two countries in that it was difficult to find a solution which would meet all the conditions set out in paragraph 3 of resolution II, which, inter alia, provides that each applicant must submit two areas of equal commercial value, one of which will be reserved for the Enterprise of the Authority.

117. At the Geneva meeting, it was decided that these consultations would be pursued during the intersessional period, with a timetable for a meeting among the applicants themselves early in December and a meeting with the Chairman during the latter part of January 1986 before the fourth session of the Preparatory Commission. If an understanding has been achieved, the Commission will continue its examination of the rules for registration, adopt them and proceed to the next stage. If no agreement has been reached, the Chairman will request the Preparatory Commission to decide on the procedure to be followed thereafter.

(b) The preparation of the rules, regulations and procedures relating to the organs of the Authority

118. The plenary on the Commission completed the second reading of the draft rules of procedure of the Assembly and has provisionally adopted a considerable number of these rules. During the second reading, it did not consider the rules which concerned the status and extent of participation by States observers to the Authority and the question as to whether main committees should be institutionalized in the rules of the Assembly. Nor were rules which raised the issue of decision-making and financial and budgetary matters considered. The Chairman intended to continue consultations on these issues.

119. The plenary also began consideration of the draft rules of procedure of the Council prepared by the secretariat and has completed its examination of more than two thirds of these rules. A number of these rules have been provisionally adopted.

120. The issues of decision-making and financial and budgetary matters were also at the heart of the discussions on the rules of the Council. In view of the close interrelationship between the rules of procedure on financial and budgetary matters being prepared for the various organs of the Authority, it is expected that these matters will be considered in their entirety at an appropriate stage.

Special Commission 1

121. The Special Commission which is undertaking studies on the problems which would be encountered by developing land-based producer States from sea-bed mineral production continued its consideration of the data and information on the mineral market, the identification of developing land-based producer States most likely to be affected and possible measures that might be taken in the event of adverse

effects. At the Geneva meeting, the Commission focused its attention more particularly on concrete formulation of the criteria for the developing States which would be affected; preparation of an outline for an in-depth study of possible effects of sea-bed production on such States and investigation of associated problems; and the formulation of certain guidelines that will need to be taken into account by the Authority in devising any remedial or assistance measures. In addition to the data and information provided by the secretariat, the Commission had before it responses from 19 international organizations on remedial measures, and programmes and activities undertaken by them in various economic fields. However, there is a realization within the Commission that no concrete recommendation can be made until sea-bed mineral production actually begins and its impact experienced.

Special Commission 2

122. The Special Commission which is preparing for the establishment of the Enterprise considered a project profile prepared by the secretariat for a deep sea-bed mining operation. This paper marked a new phase in the work of the Preparatory Commission, providing a concrete basis for discussion of mining operations and indicating the various steps involved in their establishment. The paper concentrated on a number of operational options open to the Enterprise, comparing them in terms of their financial and manpower requirements. The difficulties inherent in such exercises, including those arising from the nature of the assumptions that need to be made, received particular attention.

123. The Commission decided that, at the next session, it will begin detailed examination of the operational options, taking first that of an integrated mining project by the Enterprise alone. At the same time, it is to be noted that there is a continued emphasis on the joint venture option in the belief that it is potentially the most practicable.

124. The other important subject discussed was that of training in relation to the manpower requirements of the Enterprise. The essential part of the mandate of Special Commission 2 is reflected in paragraph 12 of resolution II which contains the obligations and responsibilities of registered pioneer investors and certifying States. It is thus accepted that Special Commission 2 can only effectively pursue its mandate in matters such as training in consultation with them and that its ability to proceed expeditiously with its work is therefore connected with the implementation of resolution II by the Preparatory Commission.

Special Commission 3

125. The Special Commission which is preparing the rules, regulations and procedures for the exploration and exploitation of the deep sea-bed began consideration of the draft regulation on prospecting, exploration and exploitation of polymetallic nodules in the Area (LOS/PCN/SCN.3/WP.6). The Commission examined the rules concerning prospecting and applications for approval of plans of work.

126. The Commission discussed in particular the question of notification of prospecting and the submission of reports by prospectors to the Authority, the right to apply, the time of submission of approval of plans of work, the submission of applications and the form of applications.

127. The Commission also considered the provisions relating to the content of the application such as those dealing with financial and technical capabilities of the applicant, undertakings by the applicant, previous contracts with the Authority, certificate of compliance, applications for reserved areas, the total area covered by the application and data on estimated commercial value.

128. The Commission left in abeyance its discussions as to whether the application should be submitted in one stage, i.e., containing two areas of equal commercial value together with a plan of work, or in two stages, which will first require the selection of a reserved site for the Enterprise of the Authority and then the subsequent submission of a plan of work in respect of the site to be allocated to the applicant.

Special Commission 4

129. The Special Commission which is dealing with the preparation of recommendations regarding practical arrangements for the establishment of the International Tribunal on the Law of the Sea continued its examination of the draft rules of procedure for the Tribunal. The Commission has already considered a number of issues such as who may represent parties before the Tribunal, and the privileges, immunities and facilities which should be accorded the representatives of parties, agents and counsels. At the Geneva meeting the Commission dealt in particular with proceedings in cases brought before the Tribunal. This included incidental proceedings which consist of preliminary objections, counter-claims, intervention by interested parties, special reference and discontinuance of proceedings. It also dealt with proceedings before chambers, the interpretation and revision of judgements and the modification of the rules in particular cases. On the subject of revision of judgements, although neither the Convention nor the Statute of the Tribunal expressly provides for it, agreement was reached that provision should be made in the draft rules of procedure by which judgements may be revised on the basis of the discovery of a new fact of a decisive nature which came to light after the judgement.

130. The Commission also considered a draft set of rules prepared by the secretariat dealing with procedure for the prompt release of vessels and crew. The Convention on the Law of the Sea empowers the Tribunal to act if a detaining State fails to release vessels as required by the Convention upon posting of a reasonable bond or security. The procedures formulated in this connection are both unusual and exceptional and are of immediate concern to fishing States and maritime States.

Notes

1/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

2/ Those States were Belgium, the Byelorussian Soviet Socialist Republic, the German Democratic Republic, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics and Uruguay.

3/ European Economic Community.

4/ United Nations publication, Sales No. E.85.V.5.

5/ Equatorial Guinea; the German Democratic Republic; Madagascar; the Netherlands and Senegal.

6/ The German Democratic Republic; Germany, Federal Republic of; and the Netherlands.

7/ Equatorial Guinea and France. It may be noted that the French Decree No. 85-185 of 6 February 1985 contains a detailed set of rules regulating the passage of foreign ships through French territorial seas.

8/ States with a 12-mile territorial sea are: Algeria; Antigua and Barbuda; Bangladesh; Barbados; Bulgaria; Burma; Canada; Cape Verde; China; Colombia; Comoros; Cook Islands; Costa Rica; Cuba; Cyprus; Democratic Kampuchea; Democratic Yemen; Djibouti; Dominica; Egypt; Equatorial Guinea; Ethiopia; Fiji; France; the Gambia; German Democratic Republic; Grenada; Guatemala; Guinea; Guinea-Bissau; Guyana; Haiti; Honduras; Iceland; India; Indonesia; Iran (Islamic Republic of); Iraq; Italy; the Ivory Coast (Côte d'Ivoire); Jamaica; Japan; Kenya; Kuwait; Libyan Arab Jamahiriya; Madagascar; Malaysia; Maldives; Malta; Mauritius; Mexico; Monaco; Morocco; Mozambique; Nauru; Netherlands; New Zealand; Niue; Oman; Pakistan; Papua New Guinea; Poland; Portugal; Republic of Korea; Romania; Samoa; Sao Tome and Principe; Saudi Arabia; Senegal; Seychelles; Solomon Islands; South Africa; Spain; Sri Lanka; Sudan; Suriname; Sweden; Thailand; Tonga; Trinidad and Tobago; Tunisia; Ukrainian Soviet Socialist Republic; Union of Soviet Socialist Republics; Vanuatu; Venezuela; Viet Nam; Yemen; Yugoslavia and Zaire.

9/ States with territorial seas greater than 12 nautical miles are: Albania; Angola; Argentina; Benin; Brazil; Cameroon; Congo; Ecuador; El Salvador; Gabon; Ghana; Liberia; Mauritania; Nicaragua; Nigeria; Panama; Sierra Leone; Somalia; Syrian Arab Republic; Togo; United Republic of Tanzania and Uruguay.

10/ The States with exclusive economic zones are: Angola; Antigua and Barbuda; Bangladesh; Barbados; Burma; Cape Verde; Colombia; Comoros; Cook Islands; Costa Rica; Cuba; Democratic Kampuchea; Democratic People's Republic of Korea; Democratic Yemen; Djibouti; Dominica; Dominican Republic; Equatorial Guinea; Fiji; France; Grenada; Guatemala; Guinea; Guinea-Bissau; Guyana; Haiti; Honduras; Iceland; India; Indonesia; Ivory Coast (Côte d'Ivoire); Kenya; Kiribati; Madagascar;

Notes (continued)

Maldives; Mauritania; Mauritius; Mexico; Morocco; Mozambique; New Zealand; Nigeria; Niue; Norway; Oman; Pakistan; Philippines; Portugal; Qatar; Samoa; Sao Tome and Principe; Senegal; Seychelles; Solomon Islands; Spain; Sri Lanka; Suriname; Togo; Tonga; Union of Soviet Socialist Republics; United Arab Emirates; United States of America; Vanuatu; Venezuela and Viet Nam. States with exclusive fishery zones include: Australia; Bahamas; Canada; Denmark; Gambia; German Democratic Republic; Germany, Federal Republic of; Iran (Islamic Republic of); Ireland; Japan; Nauru; Netherlands; Papua New Guinea; Tuvalu and United Kingdom of Great Britain and Northern Ireland.

11/ International Court of Justice, Reports of Judgments, 1982, "Case concerning the continental shelf: Tunisia-Libyan Arab Jamahiriya", p. 74, para. 100.

12/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. IV, document A/CONF.62/WP.8, part II, p. 152.

13/ These States are: Burma; Cook Islands; Chile; Democratic Kampuchea; Democratic Yemen; Guyana; Iceland; India; Madagascar; Mauritius; New Zealand; Pakistan; Senegal; Seychelles; Sri Lanka; Vanuatu and Viet Nam.

14/ Madagascar and Chile.

15/ Tribunal arbitral pour la délimitation de la frontière maritime Guinée-Guinée-Bissau, sentence of 14 February 1985, para. 56.

16/ Ibid., para. 88.

17/ International Court of Justice, Reports of Judgments, 1985; for the operative part of the judgment, see "Case concerning the continental shelf - Libyan Arab Jamahiriya-Malta", para. 79.

18/ Ibid., para. 33.

19/ Ibid., para. 39.

20/ Ibid., para. 34.

21/ Ibid., para. 77.

22/ Ibid., para. 77.

23/ Ibid., 1982, "Case concerning the continental shelf: Tunisia-Libyan Arab Jamahiriya", para. 107.

24/ Ibid., 1985, "Case concerning the continental shelf - Libyan Arab Jamahiriya-Malta", para. 50.

Notes (continued)

25/ For its reports, see the International Labour Conference, sixty-ninth session (1983), report III, part 4(A); seventieth session (1984), report III, part 4(A); seventy-first session, (1985), report III, part 4(A).

26/ For a comprehensive account of the history of the London Dumping Convention (LDC), containing the provisions of the Convention and a complete listing of the decisions made by Consultative Meetings (1975 to 1984), see International Maritime Organization document LDC/9/INF.2, 28 May 1985.

27/ The Oslo Commission has also adopted Guidelines for the allocation of substances to the annexes, similar to those adopted for the London Dumping Convention (LDC), and has decided to amend the annexes to the 1972 Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Oslo Convention), which will have the effect of bringing them in some respects more into line with those of the LDC. The Oslo Commission has also adopted decisions concerning requirements for chemical analysis of different categories of dumped wastes and for prior notification of intentions to issue special permits. All the Parties to the Oslo Convention are also Contracting Parties to the LDC (with the 1985 ratification of the LDC by Belgium).

28/ Discharge into the sea of plastics, in wastes generated on board a ship, is prohibited under MARPOL 73/78, annex V. This annex is not yet in force; however, 22 States representing some 41 per cent of the world merchant fleet have ratified it and further acceptances are required to cover the additional 9 per cent of the world fleet needed for its entry into force.

29/ The United Nations Environment Programme (UNEP), the Organisation for Economic Co-operation and Development (OECD), the European Economic Community (EEC) and the Oslo/Paris Commissions are also examining questions of transfrontier shipment of hazardous wastes. A decision and recommendations on transfrontier movement of hazardous wastes (C(83)(180)(Final)), adopted by the OECD Council in February 1984, will be the first binding international legal instrument aimed at improving control in this area. Current OECD work focuses on practical measures necessary to implement the decision of OECD member countries, e.g. preparation of Draft Guidelines on Transfrontier Movements of Hazardous Wastes Comprising a Sea Crossing. These Guidelines cite the United Nations Convention on the Law of the Sea, articles 192 and 194 (1). In 1984, the Council of the European Community adopted a "Directive on the Supervision and Control within the European Community of Transfrontier Shipment of Hazardous Wastes", which entered into force on 1 October 1985. The Guidelines under preparation by UNEP for the environmentally sound management of hazardous wastes (see UNEP/WG.95/4) are intended to include guidance on transfrontier movement of such wastes including notification and consent procedures. The problems involved are discussed in document UNEP/WG.95/2.

30/ The Seventh Consultative Meeting (1983) had adopted a resolution prohibiting low-level dumping of radioactive wastes and other matter pending a scientific review of the risks of such dumping. The Eighth Consultative Meeting (1984) had formulated more specific terms of reference for the scientific review.

Notes (continued)

It may be noted that the existing site for such dumping is in the north-east Atlantic, controlled by the Nuclear Energy Agency of the Organization for Economic Co-operation and Development (OECD/NEA), which has been reviewing the suitability of the site (see "Review of the continued suitability of the dumping site for radioactive waste in the north-east Atlantic, 1985", OECD). OECD/NEA's "Bilateral Convention Surveillance Mechanism for the Sea Dumping of Radioactive Wastes" is the mechanism, in which all member States of the European Community and Switzerland participate, which assures that such dumping is carried out in accordance with the requirements of the London Dumping Convention.

31/ See the report of the Oslo Commission submitted to the Ninth Consultative Meeting of Contracting Parties to the London Dumping Convention (LDC 9/9/2), 16 August 1985.

32/ The other agreements adopted in this context concern the Mediterranean (Barcelona Convention and Protocols, 1976; Athens Protocol, 1980; Geneva Protocol, 1982), the Kuwait Action Plan Region (Kuwait Convention and Protocol, 1978), the Western and Central African Region (Abidjan Convention and Protocol, 1981), the Red Sea and Gulf of Aden (Jeddah Convention and Protocol, 1982), the South-East Pacific (Lima Convention and Protocol, 1981; Quito Protocol, 1983), and the Wider Caribbean (Cartagena Convention and Protocol, 1983). The first meeting of States Parties to the Abidjan Convention (in force August 1984) took place in April 1985 to consider follow-up measures and the establishment of a permanent secretariat.

33/ The European Economic Community (EEC) has exclusive competence for concluding bilateral fisheries agreements with third countries, through which different types of compensation can be given in exchange for access to fishing grounds, e.g., in the form of financial compensation to be used in project implementation, scientific programmes, services, fellowships, and the provision of data on fishing activities to improve knowledge of stocks. More than seven such agreements have now been signed. A special chapter of the Third Lomé Convention between the EEC and 66 African, Caribbean and Pacific States (ACP) is dedicated to fisheries. EEC co-operative projects will also be conducted with non-ACP countries, e.g., with the Association of South-East Asian Nations (ASEAN) on data collection. As a further consequence of EEC's increased attention to its co-ordination with regional fisheries bodies, it has participated for the first time in the Indian Ocean Fisheries Commission, July 1985. EEC membership in various regional agreements is under consideration: the ICCAT Convention (International Convention for the Conservation of Atlantic Tunas), for example, was amended in 1984 to make it possible for EEC and other organizations for economic integration to become members of that Commission; similar amendment to the International Convention for the South East Atlantic Fisheries has also been proposed.

34/ The Sub-Committee on Management of Resources Within Limits of National Jurisdiction of the Fishery Committee for the Eastern Central Atlantic (CECAF) provides the framework for co-operation among the coastal States of the region. It reviews matters such as harmonization of national policies and laws, the

Notes (continued)

apportionment of quotas in the case of shared stocks and the co-ordination of the control and surveillance of ships operating in areas under national jurisdiction. It has not been considered necessary as yet to modify the statutory provisions of CECAF dealing with membership.

35/ The framework of minimum terms and conditions of access were adopted by all South Pacific Forum States at the 1982 Forum meeting.

36/ The draft Convention provides that this would be done taking into account the national TACs (total allowable catch) decided by each coastal State for the waters under its jurisdiction. For the areas under national jurisdiction, fishing licences would be issued by coastal States. Every year, each coastal State would communicate to the secretariat the proportion of the TAC which cannot be exploited by its own fishermen. The secretariat under the proposed convention would then disseminate such information among potentially interested fishermen and would facilitate arrangements for the granting of fishing licences.

37/ This was done for the Third United Nations Regional Cartographic Conference for the Americas, February-March 1985. See E/CONF.77/L.12.

38/ Even highly developed industrial coastal States face major problems, e.g., the United Kingdom quotes 66.8 per cent of its maritime zones as unsurveyed, 23.3 per cent as requiring re-survey and only 9.9 per cent as adequately surveyed. Developing island country States like Fiji face a situation where more than 99 per cent is unsurveyed.

39/ The hydrographic commissions and charting groups cover: Baltic Sea, United States of America/Canada, eastern Atlantic, Mediterranean and Black Seas, east Asia, North Sea, and the northern group of Scandinavian countries. A Commission or group has also been proposed for the south-west Pacific. The main purpose of these bodies is to scheme and allocate production responsibilities for large-scale and medium-scale international charts on a world-wide basis.

40/ More recent developments are reported in Part One, Section IV, of the present report (paras. 46 to 50 and 62) which concern legal aspects of offshore industrial installations (ILO) and the relationship between the 1972 London Dumping Convention and the 1982 Law of the Sea Convention (IMO). As reported in the 1984 report of the Secretary-General (A/39/647 and Corr.1), ICAO is examining the implications of the Convention for international air law instruments. That subject is presently being studied, in the light of comments from States and international organizations, by a Rapporteur of the ICAO Legal Committee. The Committee will look further at the matter at its next session in April 1986. IMO, which also has under review the implications of the Convention on the Law of the Sea for the numerous IMO instruments, is presently finalizing a special study in collaboration with the Office of the Special Representative for the Law of the Sea.

ANNEX

Table of signatories to and ratifications of the United Nations Convention on the Law of the Sea as at 19 November 1985

	Signature of the Convention a/	Ratification of the Convention
1. States		
Afghanistan	18/03/83	
Albania		
Algeria b/	x	
Angola b/	x	
Antigua and Barbuda	07/02/83	
Argentina b/	05/10/84	
Australia	x	
Austria	x	
Bahamas	x	29/07/83
Bahrain	x	30/05/85
Bangladesh	x	
Barbados	x	
Belgium b/ c/	05/12/84	
Belize	x	13/08/83
Benin	30/08/83	
Bhutan	x	
Bolivia b/	27/11/84	
Botswana	05/12/84	
Brazil b/	x	
Brunei Darussalam	05/12/84	
Bulgaria	x	
Burkina Faso	x	
Burma	x	
Burundi	x	
Byelorussian SSR c/ d/	x	
Cameroon	x	19/11/85
Canada	x	
Cape Verde b/	x	
Central African Republic	04/12/84	
Chad	x	

	Signature of the Convention a/	Ratification of the Convention
Chile b/	x	
China	x	
Colombia	x	
Comoros	06/12/84	
Congo	x	
Costa Rica b/	x	
Cuba b/ d/	x	15/08/84
Cyprus	x	
Czechoslovakia	x	
Democratic Kampuchea	01/07/83	
Democratic People's Republic of Korea	x	
Democratic Yemen	x	
Denmark	x	
Djibouti	x	
Dominica	28/03/83	
Dominican Republic	x	
Ecuador		
Egypt d/	x	26/08/83
El Salvador	05/12/84	
Equatorial Guinea	30/01/84	
Ethiopia	x	
Fiji	x	10/12/82
Finland b/	x	
France b/	x	
Gabon	x	
Gambia	x	22/05/84
German Democratic Republic b/ c/	x	
Germany, Federal Republic of		
Ghana	x	07/06/83
Greece b/	x	
Grenada	x	
Guatemala	08/07/83	
Guinea b/	04/10/84	06/09/85
Guinea-Bissau	x	
Guyana	x	

	Signature of the Convention a/	Ratification of the Convention
Haiti	x	
Holy See		
Honduras	x	
Hungary	x	
Iceland d/	x	21/06/85
India	x	
Indonesia	x	
Iran (Islamic Republic of) b/	x	
Iraq b/	x	30/07/85
Ireland	x	
Israel		
Italy b/	07/12/84	
Ivory Coast (Côte d'Ivoire)	x	26/03/84
Jamaica	x	21/03/83
Japan	07/02/83	
Jordan		
Kenya	x	
Kiribati		
Kuwait	x	
Lao People's Democratic Republic	x	
Lebanon	07/12/84	
Lesotho	x	
Liberia	x	
Libyan Arab Jamahiriya	03/12/84	
Liechtenstein	30/11/84	
Luxembourg b/	05/12/84	
Madagascar	25/02/83	
Malawi	07/12/84	
Malaysia	x	
Maldives	x	
Mali b/	19/10/83	16/07/85
Malta	x	
Mauritania	x	
Mauritius	x	
Mexico	x	18/03/83

	Signature of the Convention a/	Ratification of the Convention
Monaco	x	
Mongolia	x	
Morocco	x	
Mozambique	x	
Nauru	x	
Nepal	x	
Netherlands	x	
New Zealand	x	
Nicaragua b/	09/12/84	
Niger	x	
Nigeria	x	
Norway	x	
Oman b/	01/07/83	
Pakistan	x	
Panama	x	
Papua New Guinea	x	
Paraguay	x	
Peru		
Philippines b/ d/	x	08/05/84
Poland	x	
Portugal	x	
Qatar b/	27/11/84	
Republic of Korea	14/03/83	
Romania b/	x	
Rwanda	x	
Saint Christopher and Nevis	07/12/84	
Saint Lucia	x	27/03/85
Saint Vincent and the Grenadines	x	
Samoa	28/09/84	
San Marino		
Sao Tome and Principe b/	13/07/83	
Saudi Arabia	07/12/84	
Senegal	x	25/10/84
Seychelles	x	
Sierra Leone	x	

	Signature of the Convention a/	Ratification of the Convention
Singapore	x	
Solomon Islands	x	
Somalia	x	
South Africa b/	05/12/84	
Spain b/	04/12/84	
Sri Lanka	x	
Sudan b/	x	23/01/85
Suriname	x	
Swaziland	18/01/84	
Sweden b/	x	
Switzerland	17/10/84	
Syrian Arab Republic		
Thailand	x	
Togo	x	16/04/85
Tonga		
Trinidad and Tobago	x	
Tunisia d/	x	24/04/85
Turkey		
Tuvalu	x	
Uganda	x	
Ukrainian SSR c/ e/	x	
Union of Soviet Socialist Republics c/ e/	x	
United Arab Emirates	x	
United Kingdom of Great Britian and Northern Ireland		
United Republic of Tanzania	x	30/09/85
United States of America		
Uruguay b/ c/	x	
Vanuatu	x	
Venezuela		
Viet Nam	x	
Yemen b/	x	
Yugoslavia	x	
Zaire	22/08/83	
Zambia	x	07/03/83
Zimbabwe	x	
Total for States	155	24

	Signature of the Convention a/	Ratification of the Convention
2. Other entities (Under article 305 (1) (b), (c), (d), (e) and (f))		
Cook Islands	x	
European Economic Community f/	07/12/84	
Namibia (United Nations Council for)	x	18/04/83
Niue	05/12/84	
Trust Territory of the Pacific Islands		
West Indies Associated States		
Total for other entities	4	1
GRAND TOTAL	159	25

a/ Those States that signed the Convention on 10 December 1982 are indicated by an "x". Those that signed at a later date are indicated by that date.

b/ Those States that have made declarations at the time of signature of the Convention.

c/ Those States that have made declarations under article 287.

d/ Those States that have made declarations at the time of ratification of the Convention.

e/ Those States that have made declarations under article 298.

f/ Entities that made declarations under annex IX, article 2.

B. NAVIGATION: TRANSIT THROUGH STRAITS

U.S. Draft Articles on Straits, March 24, 1971*

* 26 U.N. GAOR Supp. (No. 21) at 241, U.N. Doc. A/8421/Annex IV (1971).

ANNEX IV

DRAFT ARTICLES ON THE BREADTH OF THE TERRITORIAL SEA, STRAITS, AND FISHERIES SUBMITTED TO SUB-COMMITTEE II BY THE UNITED STATES OF AMERICA*

ARTICLE I

1. Each State shall have the right, subject to the provisions of Article II, to establish the breadth of its territorial sea within limits of no more than 12 nautical miles, measured in accordance with the provisions of the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone.

2. In instances where the breadth of the territorial sea of a State is less than 12 nautical miles, such State may establish a fisheries zone contiguous to its territorial sea provided, however, that the total breadth of the territorial sea and fisheries zone shall not exceed 12 nautical miles. Such State may exercise within such a zone the same rights in respect of fisheries as it has in its territorial sea.

ARTICLE II

1. In straits used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State, all ships and aircraft in transit shall enjoy the same freedom of navigation and overflight, for the purpose of transit through and over such straits, as they have on the high seas. Coastal States may designate corridors suitable for transit by all ships and aircraft through and over such straits. In the case of straits where particular channels of navigation are customarily employed by ships in transit, the corridors, so far as ships are concerned, shall include such channels.

2. The provisions of this Article shall not affect conventions or other international agreements already in force specifically relating to particular straits.

ARTICLE III

1. The fisheries and other living resources of the high seas shall be regulated by appropriate international (including regional) fisheries organizations established or to be established for this purpose in which the coastal State and any

* Originally submitted as A/AC.138/SC.II/L.40 and Corr.1 (F. only).

other State whose nationals or vessels exploit or desire to exploit a regulated species have an equal right to participate without discrimination. No State Party whose nationals or vessels exploit a regulated species may refuse to co-operate with such organizations. Regulations of such organizations pursuant to the principles set forth in paragraph 2 of this Article shall apply to all vessels fishing the regulated species regardless of their nationality.

2. In order to assure the conservation and equitable allocation of the fisheries and other living resources of the high seas, the following principles shall be applied by the organizations referred to in paragraph 1:

A. Conservation measures shall be adopted that do not discriminate in form or in fact against any fishermen. For this purpose, the allowable catch shall be determined, on the basis of the best evidence available, at a level which is designed to maintain the maximum sustainable yield or restore it as soon as practicable, taking into account relevant environmental and economic factors.

B. Scientific information, catch and effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.

C. The percentage of the allowable catch of a stock in any area of the high seas adjacent to a coastal State that can be harvested by that State shall be allocated annually to it. The provisions of this subparagraph shall not apply to a highly migratory oceanic stock identified in Appendix A.[1/]

D. The percentage of the allowable catch of an anadromous stock that can be harvested by the State in whose fresh waters it spawns shall be allocated annually to that State.

E. With respect to subparagraphs C and D above:

(1) /The percentage of the allowable catch of a stock traditionally taken by the fishermen of other States shall not be allocated to the coastal State. This provision does not apply to any new fishing or expansion of existing fishing by other States that occurs after this Convention enters into force for the coastal State/[2/]

(2) The allocation to the coastal State shall not be implemented in a manner that discriminates in form or in fact between the fishermen of other States.

1/ Appendix A is not attached.

2/ It is the view of the United States Government that an appropriate text with respect to traditional fishing should be negotiated between coastal and distant water fishing states.

(3) When more than one coastal State qualifies for an allocation of a percentage of a stock, the total amount which may be allocated shall be equitably divided in accordance with principles of this Article.

F. All States including the coastal State may fish on the high seas for the percentage of the allowable catch not allocated in accordance with this Article.

3. The provisions of paragraph 1 shall not apply in the event that States directly concerned, including the coastal State, are unable or deem it unnecessary to establish an international or regional organization in accordance with that paragraph for the time being. In that event:

A. In the case of a highly migratory oceanic stock identified in Appendix A,[3/] such stock shall be regulated pursuant to agreement or consultation among the States concerned with the conservation and harvesting of the stock.

B. In the case of any other stock, a coastal State may implement the principles of paragraph 2 provided:

(1) The coastal State has submitted to all affected States its proposal for the establishment pursuant to paragraph 1 of an international or regional fisheries organization applying the principles of paragraph 2;

(2) Negotiations with other States affected have failed to produce, within four months, agreement on measures to be taken either with respect to the establishment of an organization or with respect to the fisheries problems involved;

(3) The coastal State has submitted to all affected States the available data supporting its measures and the reasons for its actions.

The implementing regulations of the coastal State may apply in any area of the high seas adjacent to its coast or, with respect to an anadromous stock that spawns in its fresh waters, throughout its migratory range.

4. Enforcement of the fisheries regulations adopted pursuant to this Article shall be effected as follows:

A. Each State Party shall make it an offence for its nationals and vessels to violate the fishery regulations adopted pursuant to this Article.

B. Officials of the appropriate fisheries organization, or of any State so authorized by the organization, may enforce the fishery regulations adopted pursuant to this Article with respect to any vessel fishing a regulated stock.

3/ Appendix A is not attached.

In the event an organization has not been established in accordance with this Article, properly authorized officials of the coastal State may so enforce these regulations. Actions under this subparagraph shall be limited to inspection and arrest of vessels and shall be taken in such a way as to minimize interference with fishing activities and other activities in the marine environment.

C. An arrested vessel shall be delivered promptly to the duly authorized officials of the State of nationality. Only the State of nationality of the offending vessel shall have jurisdiction to try any case or impose any penalties regarding the violation of fishery regulations adopted pursuant to this Article. Such State has the responsibility of notifying the enforcing organization or State within a period of six months of the disposition of the case.

5. The international or regional fisheries organizations referred to in this Article shall, inter alia, promote:

A. Co-operation with the United Nations, its specialized agencies and other international organizations concerned with the marine environment;

B. Scientific research regarding fisheries and other living resources of the high seas;

C. Development of coastal and distant water fishing industries in developing countries.

6. Exploitation of the living resources of the high seas shall be conducted with reasonable regard for other activities in the marine environment.

7. Any dispute which may arise between States under this Article shall, at the request of any of the parties, be submitted to a special commission of five members, unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations. The commission shall proceed in accordance with the following provisions:

A. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within two months of the request for settlement in accordance with the provisions of this Article. Failing agreement they shall, upon the request of any State Party, be named by the Secretary-General of the United Nations, within a further two-month period, in consultation with the States in dispute and with the President of the

International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

B. Any State Party to proceedings under these Articles shall have the right to name one of its nationals to sit with the special commission, with the right to participate fully in the proceedings on the same footing as a member of the commission but without the right to vote or to take part in the writing of the commission's decision.

C. The commission shall determine its own procedure, assuring each party to the proceedings a full opportunity to be heard and to present its case. It shall also determine how the costs and expenses shall be divided between the parties to the dispute, failing agreement by the parties on this matter.

D. The special commission may decide that pending its award, the measures in dispute shall not be applied.

E. The special commission shall render its decision, which shall be binding upon the parties, within a period of five months from the time it is appointed unless it decides, in case of necessity, to extend the time limit for a period not exceeding two months.

F. The special commission shall, in reaching its decisions, adhere to this Article and to any agreements between the disputing parties implementing this Article.

G. Decisions of the commission shall be by majority vote.

8. The provisions of this Article shall not affect conventions or other international agreements already in force specifically relating to particular fisheries."

U.S.S.R. Straits Proposal, July 25, 1972*

* 27 U.N. GAOR Supp. (No. 21) at 162, U.N. Doc. A/8721 (1972).

5. Draft articles on straits used for international navigation submitted by the Union of Soviet Socialist Republics*

Article ...

1. In straits used for international navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the same freedom of navigation, for the purpose of transit through such straits, as they have on the high seas. Coastal States may, in the case of narrow straits, designate corridors suitable for transit by all ships through such straits. In the case of straits where particular channels of navigation are customarily employed by ships in transit, the corridors shall include such channels.

2. The freedom of navigation provided for in this article, for the purpose of transit through the straits, shall be exercised in accordance with the following rules:

(a) Ships in transit through the straits shall take all necessary steps to avoid causing any threat to the security of the coastal States of the straits, and in particular warships in transit through such straits shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, launch their aircraft, undertake hydrographical work or engage in other acts of a nature unrelated to the transit;

(b) Ships in transit through the straits shall strictly comply with the international rules concerning the prevention of collisions between ships or other accidents and, in straits where separate lanes are designated for the passage of ships in each direction, shall not cross the dividing line between the lanes. They shall also avoid making unnecessary manoeuvres;

(c) Ships in transit through the straits shall take precautionary measures to avoid causing pollution of the waters and coasts of the straits, or any other kind of damage to the coastal States of the straits;

(d) Liability for any damage which may be caused to the coastal States of the straits as a result of the transit of ships shall rest with the flag-State of the ship which has caused the damage or with juridical persons under its jurisdiction or acting on its behalf.

(e) No State shall be entitled to interrupt or stop the transit of ships through the straits, or engage therein in any acts which interfere with the transit of ships, or require ships in transit to stop or communicate information of any kind.

3. The provisions of this article:

(a) shall apply to straits lying within the territorial waters of one or more coastal States;

(b) shall not affect the sovereign rights of the coastal States with respect to the surface, the sea-bed and the living and mineral resources of the straits;

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* Originally issued as document A/AC.138/SC.II/L.7.

(c) shall not affect the legal régime of straits through which transit is regulated by international agreements specifically relating to such straits.

Article ...

1. In the case of straits over which the airspace is used for flights by foreign aircraft between one part of the high seas and another part of the high seas, all aircraft shall enjoy the same freedom of overflight over such straits as they have in the airspace over the high seas. Coastal States may designate special air corridors suitable for overflight by aircraft, and special altitudes for aircraft flying in different directions, and may establish particulars for radio-communication with them.

2. The freedom of overflight by aircraft over the straits, as provided for in this article, shall be exercised in accordance with the following rules:

(a) Overflying aircraft shall take the necessary steps to keep within the boundaries of the corridors and at the altitude designated by the coastal States for flights over the straits, and to avoid overflying the territory of a coastal State, unless such overflight is provided for by the delimitation of the corridor designated by the coastal State;

(b) Overflying aircraft shall take all necessary steps to avoid causing any threat to the security of the coastal States, and in particular military aircraft shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, take aerial photographs, circle or dive down towards ships, take on fuel or engage in other acts of a nature unrelated to the overflight;

(c) Liability for any damage which may be caused to the coastal States as a result of the overflight of aircraft over the straits shall rest with the State to which the aircraft that has caused the damage belongs, or with juridical persons under its jurisdiction or acting on its behalf;

(d) No State shall be entitled to interrupt or stop the overflight of foreign aircraft, in accordance with this article, in the airspace over the straits.

3. The provisions of this article:

(a) shall apply to flights by aircraft over straits lying within the territorial waters of one or more coastal States;

(b) shall not affect the legal régime of straits over which overflight is regulated by international agreements specifically relating to such straits.

The Strait States Proposal, March 27, 1973*

* 28 U.N. GAOR Supp. (No. 21, Vol. III) at 3, U.N. Doc. A/AC.138/SC.II/L.18 (1973).

6

Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen: draft articles on navigation through the territorial sea including straits used for international navigation**

The question of navigation through the territorial sea, including straits used for international navigation, is one of the problems facing the Committee in its task to comply with the terms of General Assembly resolutions 2750 C (XXV) and 3029 A (XXVII).

The delegations sponsoring the present document wish to contribute to the progress of the Committee's work at this new and important stage of its proceedings and they consider that an appropriate means to achieve this aim is to submit draft articles on items 2.4 and 4.1 of the list of subjects and issues concerning navigation through the territorial sea and through straits used for international navigation, independently of the solutions that item 2.5 may receive in due course.

Although presented as separate articles, this draft is not intended to prejudge its eventual location within the convention or conventions which may be adopted by the future conference.

In drafting this document the following basic considerations have been taken into account:

(1) Navigation through the territorial sea and through straits used for international navigation should be dealt with as an entity, since the straits in question are or form part of territorial seas.

(2) Regulation of navigation should establish a satisfactory balance between the particular interests of coastal States and the general interests of international maritime navigation. This is best achieved through the principle of innocent passage which is the basis of the traditional régime for navigation through the territorial sea.

** Originally issued as document A/AC.138/SC.II/L.18.

(3) The regulation should contribute both to the security of coastal States and to the safety of international maritime navigation. This can be achieved by the reasonable and adequate exercise by the coastal State of its right to regulate navigation through its territorial sea, since the purpose of the regulation is not to prevent or hamper passage but to facilitate it without causing any adverse effects to the coastal State.

(4) The regulation should take due account of the economic realities and scientific and technological developments which have occurred in recent years; this requires the adoption of appropriate rules to regulate navigation of certain ships with "special characteristics".

(5) The regulation should, finally, meet the deficiencies of the 1958 Geneva Convention, especially those concerning the passage of warships through the territorial sea, including straits.

SECTION I. RULES APPLICABLE TO ALL SHIPS

Subsection A. Right of innocent passage

Article 1

Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

Article 2

1. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

2. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress.

Article 3

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

2. Passage shall be continuous and expeditious. Passing ships shall refrain from manoeuvring unnecessarily, hovering, or engaging in any activity other than mere passage.

3. Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law.

4. Passage of foreign fishing vessels shall not be considered innocent if those vessels do not observe such laws and regulations as the coastal State may make and publish in order to prevent them from fishing in the territorial sea.

5. Submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Article 4

The coastal State must not hamper innocent passage through the territorial sea. In particular, it shall not impede the innocent passage of a foreign ship flying the flag of a particular State or carrying goods owned by a particular State, proceeding from the territory of or consigned to such a State.

Article 5

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters is subject.

3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination amongst foreign ships, suspend temporarily and in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

4. Subject to the provisions of articles 8, 22, paragraph 3 and 23, there shall be no suspension of the innocent passage of foreign ships through straits used for international navigation which form part of the territorial sea.

Subsection B. Regulation of passage

Article 6

The coastal State may enact regulations relating to navigation in its territorial sea. Such regulations may relate, inter alia, to the following:

(a) Maritime safety and traffic and, in particular, the establishment of sea lanes and traffic separation schemes;

(b) Installation and utilization of facilities and systems of aids to navigation and the protection thereof;

(c) Installation and utilization of facilities to explore and exploit marine resources and the protection thereof;

(d) Maritime transport;

(e) Passage of ships with special characteristics;

(f) Preservation of marine and coastal environment and prevention of all forms of pollution;

(g) Research of the marine environment.

Article 7

In exercising the right of innocent passage through the territorial sea, foreign ships will not be allowed to perform activities such as:

(a) engaging in any act of espionage or collecting of information affecting the security of the coastal State;

(b) engaging in any act of propaganda against the coastal State or of interference with its systems of communications;

(c) embarking or disembarking troops, crew members, frogmen or any other person or device without the authorization of the coastal State;

(d) engaging in illicit trade;

(e) destroying or damaging submarine or aerial cables, tubes, pipelines or all forms of installations and constructions;

(f) exploring or exploiting marine and subsoil resources without the authorization of the coastal State.

Article 8

The coastal State may designate, in its territorial sea, sea lanes and traffic separation schemes, taking into account those recommended by competent international organizations, and prescribe the use of such sea lanes and traffic separation schemes as compulsory for passing ships.

Article 9

1. The coastal State is required to give appropriate publicity to any dangers of navigation, of which it has knowledge, within its territorial sea.

2. The coastal State is required to give appropriate publicity to the existence in its territorial sea of any facilities or systems of aid to navigation and of any facilities to explore and exploit marine resources which could be an obstacle to navigation, and to install in a permanent way the necessary marks to warn navigation of the existence of such facilities and systems.

Article 10

The coastal State may require any foreign ship that does not comply with the provisions concerning regulation of passage to leave its territorial sea.

SECTION II. RULES APPLICABLE TO CERTAIN TYPES OF SHIPS

Subsection A. Merchant ships

Article 11

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services. These charges shall be levied without discrimination.

3. The coastal State shall have the right to be compensated for works undertaken to facilitate passage.

Article 12

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(a) If the consequences of the crime extend to the coastal State; or

(b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the country whose flag the ship flies, before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

5. The coastal State may not take steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 13

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceeding, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

Subsection B. Ships with special characteristics

Article 14

The coastal State may regulate the passage through its territorial sea of the following:

(a) Nuclear-powered ships or ships carrying nuclear weapons;

(b) Ships carrying nuclear substances or any other material which may endanger the coastal State or pollute seriously the marine environment;

(c) Ships engaged in research of the marine environment.

Article 15

1. The coastal State may require prior notification to or authorization by its competent authorities for the passage through its territorial sea of foreign nuclear-powered ships or ships carrying nuclear weapons, in conformity with regulations in force in such a State.

2. The provisions of paragraph 1 shall not prejudice any agreement to which the coastal State may be a party.

Article 16

The coastal State may require that the passage through its territorial sea of foreign ships carrying nuclear substances or any other material which may endanger the coastal State or pollute seriously the marine environment be conditional upon any or all of the following:

(a) Prior notification to its competent authorities;

Article 22

1. Foreign warships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law.

2. Foreign warships exercising the right of innocent passage shall not perform any activity which does not have a direct bearing with the passage, such as:

(a) carrying out any exercise or practice with weapons of any kind;

(b) assuming combat position by the crew;

(c) flying their aircraft;

(d) intimidation or displaying of force;

(e) carrying out research operations of any kind.

3. Foreign warships exercising the right of innocent passage may be required to pass through certain sea lanes as may be designated for this purpose by the coastal State.

Article 23

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

Statement of John Norton Moore, United States Representative in Sub-Committee II, April 3, 1973*

* U.S. Dept. State Press Release, USUN-32(73) (1973).

UNITED STATES MISSION
TO THE UNITED NATIONS

FOR IMMEDIATE RELEASE

Press Release USUN-32(73)
April 3, 1973

STATEMENT BY MR. JOHN NORTON MOORE, UNITED STATES REPRESENTATIVE, IN SUB-COMMITTEE II, COMMITTEE ON THE PEACEFUL USES OF THE SEABED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION, APRIL 2, 1973.

Mr. Chairman:

As several speakers before this Subcommittee have indicated, one of the important tasks of the Law of the Sea Conference will be the protection of the community interests in navigation and overflight. All nations have a shared interest in these freedoms. They are essential in maintaining the flow of trade and communication. They are also essential for maintaining a stable and peaceful international order.

There are three principal aspects of these freedoms. The first is the preservation of high seas navigational freedoms beyond the territorial sea. The shared interest in such freedoms is reflected in the emerging consensus in this Committee that such freedoms should be fully protected in connection with any possible coastal state economic jurisdiction beyond a 12-mile territorial sea, which may be adopted as part of an overall Law of the Sea settlement.

The second aspect of these freedoms is a truly meaningful right of innocent passage within an agreed 12-mile territorial sea in areas other than straits used for international navigation. Both coastal states and the international community as a whole have interests in these areas. As agreement to extend the breadth of the territorial waters to 12 miles seems likely, as part of an overall Law of the Sea settlement, it will be even more important to protect the community interest in navigation in the territorial sea.

The third principal aspect of these navigational freedoms is the right of vessels and aircraft of all nations to transit freely through and over straits used for international navigation. International straits facilitate access to vast areas of the ocean and without unimpeded transit through such straits,

the legal rights of States and their vessels and aircraft to use different parts of the oceans would either be denied or severely diminished. We should be clear, Mr. Chairman, that the community interest at stake in international straits is far more vital than simply the right of innocent passage in the territorial sea. The issue is no less than whether the freedoms of the high seas enjoyed by all nations are to remain meaningful.

A principal goal of the Law of the Sea Conference must be to agree on a regime which will minimize the possibilities of conflict among nations, conflicts which may arise because of uncertainties as to legal rights and responsibilities. In view of the importance of straits used for international navigation, any regime for such straits which depended upon a criteria that could be subjectively interpreted by straits states would sow the seeds of future conflict and undercut a major goal of the Conference. For these reasons, Mr. Chairman, it is completely inappropriate to approach the problem of transit through straits as though it were simply a problem of passage through the territorial sea which could be dealt with by the doctrine of innocent passage.

Straits states, of course, also have legitimate interests -- interests in the safety of navigation and the prevention of pollution in adjacent international straits. These interests, like those of straits users and those who depend on that use, must also be protected.

In order to protect the interests of all concerned, straits users and straits states alike, the United States has submitted draft articles which call for an agreed maximum breadth of the territorial sea of 12 miles, coupled with transit provisions which will retain essential transit rights for straits users. We have further proposed establishing new safety and liability standards for the protection of straits states.

As you will recall, my delegation proposed last July that the Law of the Sea Treaty provide that surface ships transiting straits comply with applicable IMCO regulations and procedures intended to promote the safety of navigation and that state aircraft normally comply with similar ICAO regulations and procedures. We believe that adoption of these proposals will substantially alleviate any risk of accidents or pollution in international straits. We recognize, however, that there should also be a strong incentive for straits users to scrupulously observe the rules which we have proposed, and furthermore, that if accidents should nevertheless occur, there should be adequate compensation. Accordingly, we have also proposed strict liability for all vessels, including warships and state aircraft, for accidents caused by deviation from relevant IMCO and ICAO regulations. We believe that these proposals will achieve a solution which is an equitable accommodation of the interests and concerns of straits users and straits states alike. Indeed, their adoption would mean an increase in protection for straits states.

Mr. Chairman, we have offered to forego, as part of a new agreement, many of the full high seas freedoms presently exercised in straits which would be affected by an extension of the territorial sea. We seek to maintain for ourselves and the international community only the limited and essential right of unimpeded transit described in our draft articles already before this Subcommittee.

At the time of presentation of our proposals for safety and liability standards, we asked for the views and suggestions of other delegations concerning these proposals. We renew this invitation as the best means of achieving a meaningful resolution of these issues.

My delegation is deeply disappointed at the proposal dealing with navigation introduced today by the distinguished representative of the Philippines. This proposal astonishingly suggests an even more restictive and subjective concept of innocent passage than under existing international law. For example, the proposal would create a vague new right "to be compensated for works undertaken to facilitate passage." It would also permit straits states to impose restrictions on the passage of vessels which, in fact, pose no threat. Most importantly, the proposal confuses the issue of passage in the territorial sea in areas other than international straits with the very different issue of transit through and over international straits.

It is well known to all delegations that despite the codification of efforts made at the 1958 Geneva Conference, uncertainties and difficulties concerning the nature of innocent passage have continued. The effect of these uncertainties and difficulties would be greatly amplified were they to accompany an extension of the territorial sea into areas of international straits traditionally regarded as high seas. As reiterated in our August 10, 1972 statement, the United States and others have made it clear that their vital interests require that agreement on a 12-mile territorial sea be coupled with agreement on free transit of straits used for international navigation and these remain among the basic elements of our national policy which we will not sacrifice. The articles introduced by the distinguished representative of the Philippines deny the essential navigational freedoms of the international community. The important efforts of this Committee to promote agreement on all law of the sea issues will be better served by balanced proposals which protect the essential navigational interests of the international community while also recognizing the legitimate concerns of straits states.

Thank you, Mr. Chairman.

Statement by Mr. Kolosovsky, U.S.S.R.
Representative in Committee II,
July 22, 1974*

* 2 UNCLOS III Official Records 126.

12th meeting

Monday, 22 July 1974, at 4.25 p.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

Straits used for international navigation (*continued*)

[*Agenda item 4*]

1. Mr. KOLOSOVSKY (Union of Soviet Socialist Republics), referring to the draft articles on straits used for international navigation (A/CONF.62/C.2/L.11), of which his delegation was a sponsor, underlined the importance of the principle contained in article 1, which provided that all ships in transit would enjoy equal freedom of navigation for the purpose of transit passage between straits used for international navigation between two parts of the high seas. That principle was essential for maintaining the benefits derived from the tremendous development of international trade in recent years. That trade, in which the developing countries had an increasing share, was carried on more and more through straits used for international navigation. The adoption of the principle of innocent passage with regard to those straits would entail the risk of hampering international trade, to the serious detriment of certain countries and the international community as a whole. In particular, it would be prejudicial to the land-locked countries, since the right of access to the high seas would be practically worthless without the freedom to navigate through straits. The Soviet Union attached special importance to that freedom, since its only access to the Atlantic and the Far East was through straits, and its coastal shipping linking the far-flung points of its extensive territory passed through a number of straits.

2. The USSR recognized the need to protect the security of coastal States bordering on straits used for international navigation between one part of the high sea and another, but it also believed that the security and other interests of countries that used those straits, which comprised the majority, should also be taken into account. The security of the USSR depended upon communications by sea and through straits. Consequently, his delegation could not agree that matters relating to navigation through straits used for international navigation admitted unilateral solutions. Attempts to modify the traditional régime or to limit transit through those straits were against the interests of the international community.

3. Draft article 2 referred to straits which connected the high seas with the territorial sea of one or more foreign States and which were used for international navigation. The principle of innocent passage applied to those straits.

4. Article 3 established the equal freedom of overflight for those straits whose air space had been traditionally used by foreign aircraft for flying from one part of the high seas to another.

5. In preparing articles 1 and 3, special attention had been paid to the interests of the coastal State. Ships using the straits were placed under the obligation not to cause any threat to the security of coastal States, various acts were prohibited, strict compliance with international rules was required, and liability for damage caused to the coastal State was imposed upon the owner of the ship or aircraft or the person causing the damage, or the flag State or State of registry.

6. The draft articles demonstrated the willingness of their sponsors to work on the basis of co-operation and the conciliation of the diverse interests. He expressed his conviction that it would be possible to reach agreement on such a basis.

C. TRANSIT FOR LAND-LOCKED STATES

Barcelona Convention and Statute on Freedom of Transit, April 20, 1921*

* 7 L.N.T.S. 13.

No. 171. — CONVENTION AND STATUTE ON FREEDOM OF TRANSIT.[1] BARCELONA, APRIL 20, 1921.

English and French official texts registered on October 8, 1921, with the Secretariat of the League of Nations, in accordance with Article 4 of the Convention.

[2]Albania, Austria, Belgium, Bolivia, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Denmark, the British Empire (with New Zealand and India), Spain, Esthonia, Finland, France, Greece, Guatemala, Haiti, Honduras, Italy, Japan, Latvia, Lithuania, Luxemburg, Norway, Panama, Paraguay, the Netherlands, Persia, Poland, Portugal, Roumania, the Serb-Croat-Slovene State, Sweden, Switzerland, Czechoslovakia, Uruguay and Venezuela :

Desirous of making provision to secure and maintain freedom of communications and of transit,

Being of opinion that in such matters general conventions to which other Powers may accede at a later date constitute the best method of realising the purpose of Article 23 (*e*) of the Covenant of the League of Nations,

Recognising that it is well to proclaim the right of free transit and to make regulations thereon as being one of the best means of developing co-operation between States without prejudice to their rights of sovereignty or authority over routes available for transit,

Having accepted the invitation of the League of Nations to take part in a Conference at Barcelona which met on March 10th, 1921, and having taken note of the final Act of such Conference,

Anxious to bring into force forthwith the provisions of the Regulations relating to transit by rail or waterway adopted thereat,

Wishing to conclude a Convention for this purpose, the HIGH CONTRACTING PARTIES have appointed as their Plenipotentiaries :

The President of the Supreme Council of Albania :
Monsignor Fan S. NOLI, Member of Parliament ;

The President of the Republic of Austria :
M. Henri REINHARDT, Ministerial Councillor ;

His Majesty the King of the Belgians :
M. Xavier NEUJEAN, Member of the Chamber of Representatives, Minister of Railways, Marine, Posts and Telegraphs ;

The President of the Republic of Bolivia :
M. Trifon MELEAN, Bolivian Consul-General in Spain ;

[1] The ratification of Albania was deposited with the Permanent Secretariat of the League of Nations on October 8, 1921.

[2] Here follows the list of States represented at the Barcelona Conference ; the list of States which have signed the Convention will be found at the end of the text of the Convention.

Le Président de la République des Etats-Unis du Brésil :

Sa Majesté le Roi de Bulgarie :
M. Lubin BOCHKOFF, Ingénieur civil, adjoint au Directeur général des Chemins de fer et des Ports ;

Le Président de la République du Chili :
Señor Manuel RIVAS VICUÑA, Envoyé extraordinaire et Ministre plénipotentiaire ;

Le Président de la République Chinoise :
M. Ouang YONG-PAO, Envoyé extraordinaire et Ministre plénipotentiaire ;

Le Président de la République de Colombie :

Le Président de la République de Costa-Rica :

Le Président de la République de Cuba :

Sa Majesté le Roi de Danemark et d'Islande :
M. Peter Andreas HOLCK-COLDING, Chef de bureau du Ministère des Travaux publics ;

Sa Majesté le Roi d'Espagne :
Señor Don Emilio ORTUÑO Y BERTE, Membre de la Chambre des députés, ancien Ministre des Travaux publics ;

Le Président de la République Esthonienne :
M. Charles Robert PUSTA, Ministre plénipotentiaire ;

Le Président de la République de Finlande :
M. Rolf THESLEFF, Envoyé extraordinaire et Ministre plénipotentiaire ;

Le Président de la République Française :
M. Maurice SIBILLE, Député, Membre du Comité consultatif des Chemins de fer français ;

Sa Majesté le Roi du Royaume-Uni de Grande-Bretagne et d'Irlande et des Territoires britanniques au delà des mers, Empereur des Indes :
Sir Hubert LLEWELLYN SMITH, G.C.B., Conseiller économique du Gouvernement,

et pour le Dominion de la Nouvelle-Zélande :
Sir Hubert LLEWELLYN SMITH, G.C.B.

Pour l'Inde :
Sir Louis James KERSHAW, K.C.S.I., C.I.E., Secrétaire du Département des Finances et de la Statistique de l'Office de l'Inde ;

Sa Majesté le Roi des Hellènes :
M. Pierre SCASSI, Envoyé extraordinaire et Ministre plénipotentiaire de Sa Majesté hellénique en Espagne ;

Le Président de la République de Guatémala :
M. le Dr Norberto GALVEZ, Consul général de Guatémala à Barcelone ;

The President of the Republic of Brazil :

His Majesty the King of Bulgaria :
M. Lubin BOCHKOFF, Civil Engineer, Assistant to the Director-General of Railways and Ports ;

The President of the Republic of Chile :
Señor Manuel RIVAS VICUÑA, Envoy Extraordinary and Minister Plenipotentiary ;

The President of the Republic of China :
M. Ouang YONG-PAO, Envoy Extraordinary and Minister Plenipotentiary ;

The President of the Republic of Colombia :

The President of the Republic of Costa Rica :

The President of the Republic of Cuba :

His Majesty the King of Denmark and of Iceland :
M. Peter Andreas HOLCK-COLDING, Chef de Bureau in the Ministry of Public Works ;

His Majesty the King of Spain :
Señor Don Emilio ORTUÑO Y BERTE, Member of the Chamber of Deputies, formerly Minister of Public Works ;

The President of the Esthonian Republic :
M. Charles Robert PUSTA, Minister Plenipotentiary ;

The President of the Republic of Finland :
M. Rolf THESLEFF, Envoy Extraordinary and Minister Plenipotentiary ;

The President of the French Republic :
M. Maurice SIBILLE, Deputy, Member of the "Comité consultatif des Chemins de fer français" ;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India :
Sir Hubert LLEWELLYN SMITH, G.C.B., Economic Adviser to the Government ;

and for the Dominion of New Zealand :
Sir Hubert LLEWELLYN SMITH, G.C.B. ;

For India :
Sir Louis James KERSHAW, K.C.S.I., C.I.E., Secretary in the Revenue and Statistics Department in the India Office ;

His Majesty the King of the Hellenes :
M. Pierre SCASSI, Envoy Extraordinary and Minister Plenipotentiary of His Hellenic Majesty in Spain ;

The President of the Republic of Guatemala :
Dr. Norberto GALVEZ, Guatemalan Consul-General at Barcelona ;

Le Président de la République d'Haïti :

Le Président de la République de Honduras :

Sa Majesté le Roi d'Italie :
M. Paolo BIGNAMI, Ingénieur, Député au Parlement, ancien Sous-Secrétaire d'Etat ;

Sa Majesté l'Empereur du Japon :
M. MATSUDA, Ministre plénipotentiaire, Conseiller de l'Ambassade du Japon à Paris ;

Le Président de la République de Lettonie :
M. Germain ALBAT, Sous-Secrétaire d'Etat aux Affaires étrangères ;

Le Président de la République Lituanienne :
M. V. SIDZIKAUSKAS, Chargé d'Affaires à Berne ;

Son Altesse Royale la Grande-Duchesse de Luxembourg :
M. Antoine LEFORT, Chargé d'Affaires à Berne ;

Sa Majesté le Roi de Norvège :
M. le Dr Fridtjof NANSEN, Professeur à l'Université de Christiania ;

Le Président de la République de Panama :
M. le Dr Evenor HAZERA, Consul général de Panama pour l'Espagne, ancien Sous-Secrétaire d'Etat ;

Le Président de la République du Paraguay :

Sa Majesté la Reine des Pays-Bas :
M. le Jonkheer VAN PANHUYS, Ministre plénipotentiaire ;

Sa Majesté Impériale le Shah de Perse :
S. E. MIRZA HUSSEIN KHAN ALAÏ, Envoyé extraordinaire et Ministre plénipotentiaire de Perse en Espagne ;

Le Président de la République Polonaise :
M. Joseph WIELOVIEYSKI ;

Le Président de la République Portugaise :
M. Alfredo FREIRE D'ANDRADE, ancien Ministre des Affaires étrangères ;

Sa Majesté le Roi de Roumanie :
M. E. MARGARITESCO GRECIANO, Envoyé extraordinaire et Ministre plénipotentiaire ;

Sa Majesté le Roi des Serbes, Croates et Slovènes :
M. Ante TRESICH-PAVICHICH, Envoyé extraordinaire et Ministre plénipotentiaire en Espagne et au Portugal ;

Sa Majesté le Roi de Suède :
M. Fredrik V. HANSEN, Directeur général des Forces hydrauliques et des Canaux de l'Etat ;

The President of the Republic of Haiti :

The President of the Republic of Honduras :

His Majesty the King of Italy :
M. Paolo BIGNAMI, Engineer, Member of the Chamber of Deputies, formerly Under-Secretary of State.

His Majesty the Emperor of Japan :
M. MATSUDA, Minister Plenipotentiary, Counsellor of the Japanese Embassy in Paris ;

The President of the Republic of Latvia :
M. Germain ALBAT, Under-Secretary of State for Foreign Affairs ;

The President of the Lithuanian Republic :
M. V. SIDZIKAUSKAS, Chargé d'Affaires at Berne ;

Her Royal Highness the Grand-Duchess of Luxemburg :
M. Antoine LEFORT, Chargé d'Affaires at Berne ;

His Majesty the King of Norway :
Dr. Fridtjof NANSEN, Professor in Christiania University ;

The President of the Republic of Panama :
Dr. Evenor HAZERA, Consul-General for Panama in Spain, formerly Under-Secretary of State ;

The President of the Republic of Paraguay :

Her Majesty the Queen of the Netherlands :
Jonkheer VAN PANHUYS, Minister Plenipotentiary ;

His Imperial Majesty the Shah of Persia :
His Excellency Mirza HUSSEIN KHAN ALAÏ, Envoy Extraordinary and Minister Plenipotentiary to Spain ;

The President of the Polish Republic :
M. Joseph WIELOVIEYSKI ;

The President of the Portuguese Republic :
M. Alfredo FREIRE D'ANDRADE, formerly Minister of Foreign Affairs ;

His Majesty the King of Roumania :
M. E. MARGARITESCO GRECIANO, Envoy Extraordinary and Minister Plenipotentiary ;

His Majesty the King of the Serbs, Croats and Slovenes :
Dr. Ante TRESICH-PAVICHICH, Envoy Extraordinary and Minister Plenipotentiary to Spain and Portugal ;

His Majesty the King of Sweden :
M. Fredrik V. HANSEN, Director-General of Hydraulic Power and State Canals ;

Le Président de la Confédération Suisse :
M. Giuseppe MOTTA, Conseiller fédéral, Chef du Département politique fédéral ;

Le Président de la République Tchécoslovaque :
M. le Dr Ottokar LANKAS, Conseiller ministériel et Directeur du Service des Transports au Ministère des Chemins de fer ;

Le Président de la République Orientale de l'Uruguay :
M. Benjamin FERNANDEZ Y MEDINA, Envoyé extraordinaire et Ministre plénipotentiaire en Espagne ;

Le Président des Etats-Unis de Venezuela :

Lesquels, après avoir communiqué leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus de ce qui suit :

Article premier.

Les Hautes Parties Contractantes déclarent accepter le statut ci-annexé relatif à la liberté du transit, adopté par la Conférence de Barcelone, le 14 avril 1921.

Ce statut sera considéré comme faisant partie intégrante de la présente Convention. En conséquence, elles déclarent accepter les obligations et engagements du dit statut, conformément aux termes et suivant les conditions qui y figurent.

Article 2.

La présente Convention ne porte en rien atteinte aux droits et obligations qui résultent des dispositions du Traité de Paix, signé à Versailles le 28 juin 1919, ou des dispositions des autres traités analogues, en ce qui concerne les Puissances signataires ou bénéficiaires de ces traités.

Article 3.

La présente Convention, dont les textes français et anglais font également foi, portera la date de ce jour et pourra être signée jusqu'au 1er décembre 1921.

Article 4.

La présente Convention est sujette à ratification. Les instruments de ratification seront transmis au Secrétaire général de la Société des Nations, qui en notifiera la réception aux autres Membres de la Société, ainsi qu'aux Etats admis à signer la Convention. Les instruments de ratification seront déposés aux archives du Secrétariat.

Pour déférer aux prescriptions de l'article 18 du Pacte de la Société des Nations, le Secrétaire général procédera à l'enregistrement de la présente Convention, dès le dépôt de la première ratification.

Article 5.

Les Membres de la Société des Nations qui n'auront pas signé la présente Convention avant le 1er décembre 1921 pourront y adhérer.

The President of the Swiss Confederation :

M. Giuseppe MOTTA, Federal Councillor, Chief of the Federal Political Department ;

The President of the Czechoslovak Republic :

Dr. Ottokar LANKAS, Ministerial Councillor and Director of Transport in the Ministry of Railways ;

The President of the Oriental Republic of Uruguay :

M. Benjamin FERNANDEZ Y MEDINA, Envoy Extraordinary and Minister Plenipotentiary to Spain ;

The President of the United States of Venezuela :

Who, after communicating their full powers found in good and due form, have agreed as follows :

Article 1.

The High Contracting Parties declare that they accept the Statute on Freedom of Transit annexed hereto, adopted by the Barcelona Conference on April 14th, 1921.

This Statute will be deemed to constitute an integral part of the present Convention. Consequently, they hereby declare that they accept the obligations and undertakings of the said Statute in conformity with the terms and in accordance with the conditions set out therein.

Article 2.

The present Convention does not in any way affect the rights and obligations arising out of the provisions of the Treaty of Peace signed at Versailles on June 28th, 1919, or out of the provisions of the other corresponding Treaties, in so far as they concern the Powers which have signed, or which benefit by, such Treaties.

Article 3.

The present Convention, of which the French and English texts are both authentic, shall bear this day's date and shall be open for signature until December 1st, 1921.

Article 4.

The present Convention is subject to ratification. The instruments of ratification shall be transmitted to the Secretary-General of the League of Nations, who will notify the receipt of them to the other Members of the League and to States admitted to sign the Convention. The instruments of ratification shall be deposited in the archives of the Secretariat.

In order to comply with the provisions of Article 18 of the Covenant of the League of Nations, the Secretary-General will register the present Convention upon the deposit of the first ratification.

Article 5.

Members of the League of Nations which have not signed the present Convention before December 1st, 1921, may accede to it.

Il en sera de même des Etats non Membres de la Société, auxquels le Conseil de la Société aurait décidé de donner communication officielle de la présente Convention.

L'adhésion sera notifiée au Secrétaire général de la Société, qui informera toutes les Puissances intéressées de l'adhésion et de la date à laquelle celle-ci a été notifiée.

Article 6.

La présente Convention n'entrera en vigueur qu'après avoir été ratifiée par cinq Puissances. La date de son entrée en vigueur sera le quatre-vingt-dixième jour après la réception par le Secrétaire général de la Société des Nations de la cinquième ratification. Ultérieurement, la présente Convention prendra effet, en ce qui concerne chacune des parties, quatre-vingt-dix jours après la réception de la ratification ou de la notification de l'adhésion.

Dès l'entrée en vigueur de la présente Convention, le Secrétaire général en adressera une copie conforme aux Puissances non Membres de la Société, qui, en vertu des Traités de Paix, se sont engagées à y adhérer.

Article 7.

Un recueil spécial sera tenu par le Secrétaire général de la Société des Nations, indiquant quelles parties ont signé ou ratifié la présente Convention, y ont adhéré ou l'ont dénoncée. Ce recueil sera constamment ouvert aux Membres de la Société et publication en sera faite aussi souvent que possible, suivant les indications du Conseil.

Article 8.

Sous réserve des dispositions de l'article 2 de la présente Convention, celle-ci peut être dénoncée par l'une quelconque des parties, après l'expiration d'un délai de cinq ans, à partir de la date de son entrée en vigueur pour ladite partie. La dénonciation sera faite sous forme de notification écrite, adressée au Secrétaire général de la Société des Nations. Copie de cette notification, informant toutes les autres parties de la date à laquelle elle a été reçue, leur sera immédiatement transmise par le Secrétaire général.

La dénonciation prendra effet un an après la date à laquelle elle aura été reçue par le Secrétaire général et ne sera opérante qu'en ce qui concerne la Puissance qui l'aura notifiée.

Article 9.

La revision de la présente Convention peut être demandée à toute époque par un tiers des Hautes Parties Contractantes.

The same applies to States not Members of the League to which the Council of the League may decide officially to communicate the present Convention.

Accession will be notified to the Secretary-General of the League, who will inform all Powers concerned of the accession and of the date on which it was notified.

Article 6.

The present Convention will not come into force until it has been ratified by five Powers. The date of its coming into force shall be the ninetieth day after the receipt by the Secretary-General of the League of Nations of the fifth ratification. Thereafter the present Convention will take effect in the case of each Party ninety days after the receipt of its ratification or of the notification of its accession.

Upon the coming into force of the present Convention, the Secretary-General will address a certified copy of it to the Powers not Members of the League which are bound under the Treaties of Peace to accede to it.

Article 7.

A special record shall be kept by the Secretary-General of the League of Nations, showing which of the Parties have signed, ratified, acceded to or denounced the present Convention. This record shall be open to the Members of the League at all times ; it shall be published as often as possible in accordance with the directions of the Council.

Article 8.

Subject to the provisions of Article 2 of the present Convention, the latter may be denounced by any Party thereto after the expiration of five years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the Secretary-General of the League of Nations. Copies of such notification shall be transmitted forthwith by him to all the other Parties, informing them of the date on which it was received.

The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying Power.

Article 9.

A request for the revision of the present Convention may be made at any time by one-third of the High Contracting Parties.

En foi de quoi, les plénipotentiaires susnommés ont signé la présente Convention.

Fait à Barcelone, le vingt avril mil neuf cent vingt et un, en un seul exemplaire qui restera déposé dans les archives de la Société des Nations.[1]

In faith whereof the above-named Plenipotentiaries have signed the present Convention.

Done at Barcelona the twentieth day of April one thousand nine hundred and twenty-one, in a single copy which shall remain deposited in the archives of the League of Nations.[1]

[AFRIQUE DU SUD] [SOUTH AFRICA]	
[ALBANIE] [ALBANIA]	FAN S. NOLI.
[ARGENTINE] [ARGENTINA]	
[AUSTRALIE] [AUSTRALIA]	
[AUTRICHE] [AUSTRIA]	REINHARDT.
[BELGIQUE] [BELGIUM]	XAVIER NEUJEAN.
[BOLIVIE] [BOLIVIA]	TRIFON MELEAN.
[BRÉSIL] [BRAZIL]	
[BULGARIE] [BULGARIA]	L. BOCHKOFF.
[CANADA]	
[CHILI] [CHILE]	MANUEL RIVAS VICUÑA.
[CHINE] [CHINA]	OUANG YONG-PAO.

[1] Ci-dessous, la liste des Etats Membres de la Société des Nations ayant signé la Convention ou ayant le droit d'y adhérer.

[1] Here follows the list of States Members of the League of Nations which have signed the Convention or which have the right to adhere to it.

[COLOMBIE] [COLOMBIA]		
[COSTA-RICA]		
[CUBA]		
[DANEMARK] [DENMARK]	A. HOLCK-COLDING.	
[EMPIRE BRITANNIQUE] [BRITISH EMPIRE]	H. LLEWELLYN SMITH.	
	Sous réserve de la déclaration insérée au procès-verbal de la Séance du 19 avril 1921, relative aux Dominions britanniques non représentés à la Conférence de Barcelone.	*Subject to the declaration inserted in the Procès-verbal of the meeting of April 19, 1921, as to the British Dominions which have not been represented at the Barcelona Conference.*
[NOUVELLE-ZÉLANDE] [NEW ZEALAND]	H. LLEWELLYN SMITH.	
[INDE] [INDIA]	KERSHAW.	
[ESPAGNE] [SPAIN]	E. ORTUÑO.	
[ESTHONIE] [ESTHONIA]	C. R. PUSTA.	
[FINLANDE] [FINLAND]	ROLF THESLEFF.	
[FRANCE]	MAURICE SIBILLE.	
[GRÈCE] [GREECE]	P. SCASSI.	
[GUATÉMALA]	N. GALVEZ.	
[HAITI]		
[HONDURAS]		

[ITALIE] [ITALY]	PAOLO BIGNAMI.
[JAPON] [JAPAN]	M. MATSUDA.
[LETTONIE] [LATVIA]	GERMAIN ALBAT.
[LITUANIE] [LITHUANIA]	V. SIDZIKAUSKAS.
[LUXEMBOURG] [LUXEMBURG]	LEFORT.
[NICARAGUA]	
[NORVÈGE] [NORWAY]	FRIDTJOF NANSEN.
[PANAMA]	EVENOR HAZERA.
[PARAGUAY]	
[PAYS-BAS] [NETHERLANDS]	VAN PANHUYS.
[PÉROU] [PERU]	
[PERSE] [PERSIA]	HUSSEIN KHAN ALAI.
[POLOGNE] [POLAND]	JOSEPH WIELOVIEYSKI.
[PORTUGAL]	A. FREIRE D'ANDRADE.
[ROUMANIE] [ROUMANIA]	E. MARGARITESCO GRECIANU.
[SALVADOR]	
[ÉTAT SERBE-CROATE-SLOVÈNE] [SERB-CROAT-SLOVENE STATE]	ANTE TRESICH-PAVICIC.

[SIAM]	
[SUÈDE] [SWEDEN]	FREDRIK HANSEN.
[SUISSE] [SWITZERLAND]	MOTTA.
[TCHÉCOSLOVAQUIE] [CZECHOSLOVAKIA]	Dr LANKAS OTAKAR.
[URUGUAY]	B. FERNANDEZ Y MEDINA.
[VENEZUELA]	

STATUTE ON FREEDOM OF TRANSIT.

Article 1.

Persons, baggage and goods, and also vessels, coaching and goods stock, and other means of transport, shall be deemed to be in transit across territory under the sovereignty or authority of one of the Contracting States, when the passage across such territory, with or without transhipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey, beginning and terminating beyond the frontier of the State across whose territory the transit takes place.

Traffic of this nature is termed in this Statute " traffic in transit."

Article 2.

Subject to the other provisions of this Statute, the measures taken by Contracting States for regulating and forwarding traffic across territory under their sovereignty or authority shall facilitate free transit by rail or waterway on routes in use convenient for international transit. No distinction shall be made which is based on the nationality of persons, the flag of vessels, the place of origin, departure, entry, exit or destination, or on any circumstances relating to the ownership of goods or of vessels, coaching or goods stock or other means of transport.

In order to ensure the application of the provisions of this Article, Contracting States will allow transit in accordance with the customary conditions and reserves across their territorial waters.

Article 3.

Traffic in transit shall not be subject to any special dues in respect of transit (including entry and exit). Nevertheless, on such traffic in transit there may be levied dues intended solely to defray expenses of supervision and administration entailed by such transit. The rate of any such dues must correspond as nearly as possible with the expenses which they are intended to cover, and the dues must be imposed under the conditions of equality laid down in the preceding Article, except that on certain routes such dues may be reduced or even abolished on account of differences in the cost of supervision.

Article 4.

The Contracting States undertake to apply to traffic in transit on routes operated or administered by the State or under concession, whatever may be the place of departure or destination of the traffic, tariffs which, having regard to the conditions of the traffic and to considerations of commercial competition between routes, are reasonable as regards both their rates and the method of their application. These tariffs shall be so fixed as to facilitate international traffic as much as possible. No charges, facilities or restrictions shall depend, directly or indirectly, on the nationality or ownership of the vessel or other means of transport on which any part of the complete journey has been or is to be accomplished.

Article 5.

No Contracting State shall be bound by this Statute to afford transit for passengers whose admission into its territories is forbidden, or for goods of a kind of which the importation is prohibited, either on grounds of public health or security, or as a precaution against diseases of animals or plants.

Each Contracting State shall be entitled to take reasonable precautions to ensure that persons, baggage and goods, particularly goods which are the subject of a monopoly, and also vessels, coaching and goods stock and other means of transport, are really in transit, as well as to ensure that passengers in transit are in a position to complete their journey, and to prevent the safety of the routes and means of communication being endangered.

Nothing in this Statute shall affect the measures which one of the Contracting States may feel called upon to take in pursuance of general international Conventions to which it is a party, or which may be concluded hereafter, particularly Conventions concluded under the auspices of the League of Nations, relating to the transit, export or import of particular kinds of articles, such as opium or other dangerous drugs, arms or the produce of fisheries, or in pursuance of general Conventions intended to prevent any infringement of industrial, literary or artistic property, or relating to false marks, false indications of origin, or other methods of unfair competition.

Any haulage service established as a monopoly on waterways used for transit must be so organised as not to hinder the transit of vessels.

Article 6.

This Statute does not of itself impose on any of the Contracting States a fresh obligation to grant freedom of transit to the nationals and their baggage, or to the flag of a non-Contracting State, nor to the goods, nor to coaching and goods stock or other means of transport coming or entering from, or leaving by, or destined for a non-Contracting State, except when a valid reason is shown for such transit by one of the other Contracting States concerned. It is understood that for the purposes of this Article, goods in transit under the flag of a Contracting State shall, if no transhipment takes place, benefit by the advantages granted to that flag.

Article 7.

The measures of a general or particular character which a Contracting State is obliged to take in case of an emergency affecting the safety of the State or the vital interests of the country may in exceptional cases, and for as short a period as possible, involve a deviation from the provisions of the above Articles ; it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

Article 8.

This Statute does not prescribe the rights and duties of belligerents and neutrals in time of war. The Statute shall, however, continue in force in time of war so far as such rights and duties permit.

Article 9.

This Statute does not impose upon a Contracting State any obligations conflicting with its rights and duties as a Member of the League of Nations.

Article 10.

The coming into force of this Statute will not abrogate treaties, conventions and agreements on questions of transit concluded by Contracting States before May 1st, 1921.

In consideration of such agreements being kept in force, Contracting States undertake, either on the termination of the agreement or when circumstances permit, to introduce into agreements so kept in force which contravene the provisions of this Statute the modifications required to bring them into harmony with such provisions, so far as the geographical, economic or technical circumstances of the countries or areas concerned allow.

Contracting States also undertake not to conclude in future treaties, conventions or agreements which are inconsistent with the provisions of this Statute, except when geographical, economic or technical considerations justify exceptional deviations therefrom.

Furthermore, Contracting States may, in matters of transit, enter into regional understandings consistent with the principles of this Statute

Article 11.

This Statute does not entail in any way the withdrawal of facilities which are greater than those provided for in the Statute and have been granted, under conditions consistent with its principles, to traffic in transit across territory under the sovereignty or authority of a Contracting State. The Statute also entails no prohibitions of such grant of greater facilities in the future.

Article 12.

In conformity with Article 23 (*e*) of the Covenant of the League of Nations, any Contracting State which can establish a good case against the application of any provision of this Statute in some or all of its territory, on the ground of the grave economic situation arising out of the acts of devastation perpetrated on its soil during the war 1914-1918, shall be deemed to be relieved temporarily of the obligations arising from the application of such provision, it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

Article 13.

Any dispute which may arise as to the interpretation or application of this Statute which is not settled directly between the parties themselves shall be brought before the Permanent Court of International Justice, unless, under a special agreement or a general arbitration provision, steps are taken for the settlement of the dispute by arbitration or some other means.

Proceedings are opened in the manner laid down in Article 40 of the Statute of the Permanent Court of International Justice.

In order to settle such disputes, however, in a friendly way as far as possible, the Contracting States undertake, before resorting to any judicial proceedings and without prejudice to the powers and right of action of the Council and of the Assembly, to submit such disputes for an opinion to any body established by the League of Nations, as the advisory and technical organisation of the Members of the League in matters of communications and transit. In urgent cases, a preliminary opinion may recommend temporary measures intended, in particular, to restore the facilities for freedom of transit which existed before the act or occurrence which gave rise to the dispute.

Article 14.

In view of the fact that within or immediately adjacent to the territory of some of the Contracting States there are areas or enclaves, small in extent and population in comparison with such territories, and that these areas or enclaves form detached portions or settlements of other parent States, and that it is impracticable for reasons of an administrative order to apply to them the provisions of this Statute, it is agreed that these provisions shall not apply to them.

The same stipulation applies where a colony or dependency has a very long frontier in comparison with its surface and where in consequence it is practically impossible to afford the necessary Customs and police supervision.

The States concerned, however, will apply in the cases referred to above a regime which will respect the principles of the present Statute and facilitate transit and communications as far as practicable.

Article 15.

It is understood that this Statute must not be interpreted as regulating in any way rights and obligations *inter se* of territories forming part or placed under the protection of the same sovereign State, whether or not these territories are individually Members of the League of Nations.

New York Convention on Transit Trade of Land-Locked Countries, July 8, 1965*

* 597 U.N.T.S. 42.

CONVENTION[1] ON TRANSIT TRADE OF LAND-LOCKED STATES. DONE AT NEW YORK, ON 8 JULY 1965

PREAMBLE

The States Parties to the present Convention,

Recalling that article 55 of its charter requires the United Nations to promote conditions of economic progress and solutions of international economic problems,

Noting General Assembly resolution 1028 (XI)[2] on the land-locked countries and the expansion of international trade which, " recognizing the need of land-locked countries for adequate transit facilities in promoting international trade ", invited " the Governments of Member States to give full recognition to the needs of land-locked Member States in the matter of transit trade and, therefore, to accord them adequate facilities in terms of international law and practice in this regard, bearing in mind the future requirements resulting from the economic development of the land-locked countries ",

Recalling article 2 of the Convention on the High Seas which states that the high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty and article 3 of the said Convention which states :

" 1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea.

[1] The Convention was adopted by the United Nations Conference on Transit Trade of Land-locked Countries, which had been convened pursuant to the decision of the General Assembly of the United Nations taken at its 1328th plenary meeting on 10 February 1965; see *Official Records of the General Assembly, Nineteenth Session, Supplement No. 15* (A/5815), p. 9. The Conference met at the Headquarters of the United Nations in New York from 7 June 1965 to 8 July 1965.

In accordance with article 20, paragraph 1, the Convention came into force on 9 June 1967, the thirtieth day following the date of deposit of the instruments of ratification or accession of at least two land-locked States and two transit States having a sea coast. It came into force on that date in respect of the following States, on behalf on which the instruments of ratification or accession (*a*) were deposited with the Secretary-General of the United Nations on the dates indicated (asterisk denotes transit States having a sea coast) :

Chad	2 March	1967 (*a*)
Malawi	12 December	1966 (*a*)
Mongolia	26 July	1966 (*a*)
Nepal	22 August	1966
Niger	3 June	1966 (*a*)
*Nigeria	16 May	1966 (*a*)
*Yugoslavia	10 May	1967
Zambia	2 December	1966

[2] United Nations, *Official Records of the General Assembly, Eleventh Session, Supplement No. 17* (A/3572), p. 12.

To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international conventions accord :

" (*a*) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and

" (*b*) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to seaports and the use of such ports.

" 2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such States are not already parties to existing international conventions. "

Reaffirming the following principles adopted by the United Nations Conference on Trade and Development with the understanding that these principles are interrelated and each principle should be construed in the context of the other principles :

Principle I

The recognition of the right of each land-locked State of free access to the sea is an essential principle for the expansion of international trade and economic development.

Principle II

In territorial and on internal waters, vessels flying the flag of land-locked countries should have identical rights and enjoy treatment identical to that enjoyed by vessels flying the flag of coastal States other than the territorial State.

Principle III

In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter and in conformity with existing international conventions accord to ships flying the flag of that State treatment equal to that accorded to their own ships or to the ships of any other State as regards access to seaports and the use of such ports.

Principle IV

In order to promote fully the economic development of the land-locked countries, the said countries should be afforded by all States, on the basis of reciprocity, free and unrestricted transit, in such a manner that they have free access to regional and international trade in all circumstances and for every type of goods.

Goods in transit should not be subject to any customs duty.

Means of transport in transit should not be subject to special taxes or charges higher than those levied for the use of means of transport of the transit country.

Principle V

The State of transit, while maintaining full sovereignty over its territory, shall have the right to take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit shall in no way infringe its legitimate interests of any kind.

Principle VI

In order to accelerate the evolution of a universal approach to the solution of the special and particular problems of trade and development of land-locked countries in the different geographical areas, the conclusion of regional and other international agreements in this regard should be encouraged by all States.

Principle VII

The facilities and special rights accorded to land-locked countries in view of their special geographical position are excluded from the operation of the most-favoured-nation clause.

Principle VIII

The principles which govern the right of free access to the sea of the land-locked State shall in no way abrogate existing agreements between two or more contracting parties concerning the problems, nor shall they raise an obstacle as regards the conclusions of such agreements in the future, provided that the latter do not establish a régime which is less favourable than or opposed to the above-mentioned provisions.

Have agreed as follows :

Article 1

DEFINITIONS

For the purpose of this Convention,

(*a*) the term " land-locked State " means any Contracting State which has no sea-coast;

(*b*) the term " traffic in transit " means the passage of goods including unaccompanied baggage across the territory of a Contracting State between a land-locked State and the sea when the passage is a portion of a complete journey which begins or terminates within the territory of that land-locked State and which includes sea transport directly preced-

ing or following such passage. The trans-shipment, warehousing, breaking bulk, and change in the mode of transport of such goods as well as the assembly, disassembly or reassembly of machinery and bulky goods shall not render the passage of goods outside the definition of " traffic in transit " provided that any such operation is undertaken solely for the convenience of transportation. Nothing in this paragraph shall be construed as imposing an obligation on any Contracting State to establish or permit the establishment of permanent facilities on its territory for such assembly, disassembly or reassembly;

(*c*) the term " transit State " means any Contracting State with or without a sea-coast, situated between a land-locked State and the sea, through whose territory " traffic in transit " passes;

(*d*) the term " means of transport " includes :

(i) any railway stock, seagoing and river vessels and road vehicles;

(ii) where the local situation so requires porters and pack animals;

(iii) if agreed upon by the Contracting States concerned, other means of transport and pipelines and gas lines

when they are used for traffic in transit within the meaning of this article.

Article 2

FREEDOM OF TRANSIT

1. Freedom of transit shall be granted under the terms of this Convention for traffic in transit and means of transport. Subject to the other provisions of this Convention, the measures taken by Contracting States for regulating and forwarding traffic across their territory shall facilitate traffic in transit on routes in use mutually acceptable for transit to the Contracting States concerned. Consistent with the terms of this Convention, no discrimination shall be exercised which is based on the place of origin, departure, entry, exit or destination or on any circumstances relating to the ownership of the goods or the ownership, place of registration or flag of vessels, land vehicles or other means of transport used.

2. The rules governing the use of means of transport, when they pass across part or the whole of the territory of another Contracting State, shall be established by common agreement among the Contracting States concerned, with due regard to the multilateral international conventions to which these States are parties.

3. Each Contracting State shall authorize, in accordance with its laws, rules and regulations, the passage across or access to its territory of persons whose movement is necessary for traffic in transit.

4. The Contracting States shall permit the passage of traffic in transit across their territorial waters in accordance with the principles of customary international law or applicable international conventions and with their internal regulations.

Article 3

CUSTOMS DUTIES AND SPECIAL TRANSIT DUES

Traffic in transit shall not be subjected by any authority within the transit State to customs duties or taxes chargeable by reason of importation or exportation nor to any special dues in respect of transit. Nevertheless on such traffic in transit there may be levied charges intended solely to defray expenses of supervision and administration entailed by such transit. The rate of any such charges must correspond as nearly as possible with the expenses they are intended to cover and, subject to that condition, the charges must be imposed in conformity with the requirement of non-discrimination laid down in article 2, paragraph 1.

Article 4

MEANS OF TRANSPORT AND TARIFFS

1. The Contracting States undertake to provide, subject to availability, at the points of entry and exit, and as required at points of trans-shipment, adequate means of transport and handling equipment for the movement of traffic in transit without unnecessary delay.

2. The Contracting States undertake to apply to traffic in transit, using facilities operated or administered by the State, tariffs or charges which, having regard to the conditions of the traffic and to considerations of commercial competition, are reasonable as regards both their rates and the method of their application. These tariffs or charges shall be so fixed as to facilitate traffic in transit as much as possible, and shall not be higher than the tariffs or charges applied by Contracting States for the transport through their territory of goods of countries with access to the sea. The provisions of this paragraph shall also extend to the tariffs and charges applicable to traffic in transit using facilities operated or administered by firms or individuals, in cases in which the tariffs or charges are fixed or subject to control by the Contracting State. The term " facilities " used in this paragraph shall comprise means of transport, port installations and routes for the use of which tariffs or charges are levied.

3. Any haulage service established as a monopoly on waterways used for transit must be so organized as not to hinder the transit of vessels.

4. The provisions of this article must be applied under the conditions of non-discrimination laid down in article 2, paragraph 1.

Article 5

METHODS AND DOCUMENTATION IN REGARD TO CUSTOMS, TRANSPORT, ETC.

1. The Contracting States shall apply administrative and customs measures permitting the carrying out of free, uninterrupted and continuous traffic in transit. When necessary, they should undertake negotiations to agree on measures that ensure and facilitate the said transit.

2. The Contracting States undertake to use simplified documentation and expeditious methods in regard to customs, transport and other administrative procedures relating to traffic in transit for the whole transit journey on their territory, including any trans-shipment, warehousing, breaking bulk, and changes in the mode of transport as may take place in the course of such journey.

Article 6

STORAGE OF GOODS IN TRANSIT

1. The conditions of storage of goods in transit at the points of entry and exit, and at intermediate stages in the transit State may be established by agreement between the States concerned. The transit States shall grant conditions of storage at least as favourable as those granted to goods coming from or going to their own countries.

2. The tariffs and charges shall be established in accordance with article 4.

Article 7

DELAYS OR DIFFICULTIES IN TRAFFIC IN TRANSIT

1. Except in cases of *force majeure* all measures shall be taken by Contracting States to avoid delays in or restrictions on traffic in transit.

2. Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of the land-locked State shall co-operate towards their expeditious elimination.

Article 8

FREE ZONES OR OTHER CUSTOMS FACILITIES

1. For convenience of traffic in transit, free zones or other customs facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

2. Facilities of this nature may also be provided for the benefit of land-locked States in other transit States which have no sea-coast or seaports.

Article 9

PROVISION OF GREATER FACILITIES

This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in the Convention and which under conditions consistent with its principles, are agreed between Contracting States or granted by a Contracting State. The Convention also does not preclude such grant of greater facilities in the future.

Article 10

RELATION TO MOST-FAVOURED-NATION CLAUSE

1. The Contracting States agree that the facilities and special rights accorded by this Convention to land-locked States in view of their special geographical position are excluded from the operation of the most-favoured-nation clause. A land-locked State which is not a Party to this Convention may claim the facilities and special rights accorded to land-locked States under this Convention only on the basis of the most-favoured-nation clause of a treaty between that land-locked State and the Contracting State granting such facilities and special rights.

2. If a Contracting State grants to a land-locked State facilities or special rights greater than those provided for in this Convention, such facilities or special rights may be limited to that land-locked State, except in so far as the withholding of such greater facilities or special rights from any other land-locked State contravenes the most-favoured-nation provision of a treaty between such other land-locked State and the Contracting State granting such facilities or special rights.

Article 11

EXCEPTIONS TO CONVENTION ON GROUNDS OF PUBLIC HEALTH, SECURITY, AND PROTECTION OF INTELLECTUAL PROPERTY

1. No Contracting State shall be bound by this Convention to afford transit to persons whose admission into its territory is forbidden, or for goods of a kind

of which the importation is prohibited, either on grounds of public morals, public health or security, or as a precaution against diseases of animals or plants or against pests.

2. Each Contracting State shall be entitled to take reasonable precautions and measures to ensure that persons and goods, particularly goods which are the subject of a monopoly, are really in transit, and that the means of transport are really used for the passage of such goods, as well as to protect the safety of the routes and means of communication.

3. Nothing in this Convention shall affect the measures which a Contracting State may be called upon to take in pursuance of provisions in a general international convention, whether of a world-wide or regional character, to which it is a party, whether such convention was already concluded on the date of this Convention or is concluded later, when such provisions relate :

(*a*) to export or import or transit of particular kinds of articles such as narcotics, or other dangerous drugs, or arms; or

(*b*) to protection of industrial, literary or artistic property, or protection of trade names, and indications of source or appellations of origin, and the suppression of unfair competition.

4. Nothing in this Convention shall prevent any Contracting State from taking any action necessary for the protection of its essential security interests.

Article 12

EXCEPTIONS IN CASE OF EMERGENCY

The measures of a general or particular character which a Contracting State is obliged to take in case of an emergency endangering its political existence or its safety may, in exceptional cases and for as short a period as possible, involve a deviation from the provisions of this Convention on the understanding that the principle of freedom of transit shall be observed to the utmost possible extent during such a period.

Article 13

APPLICATION OF THE CONVENTION IN TIME OF WAR

This Convention does not prescribe the rights and duties of belligerents and neutrals in time of war. The Convention shall, however, continue in force in time of war so far as such rights and duties permit.

Article 14

OBLIGATIONS UNDER THE CONVENTION AND RIGHTS AND DUTIES OF UNITED NATIONS MEMBERS

This Convention does not impose upon a Contracting State any obligation conflicting with its rights and duties as a Member of the United Nations.

Article 15

RECIPROCITY

The provisions of this Convention shall be applied on a basis of reciprocity.

Article 16

SETTLEMENT OF DISPUTES

1. Any dispute which may arise with respect to the interpretation or application of the provisions of this Convention which is not settled by negotiation or by other peaceful means of settlement within a period of nine months shall, at the request of either pary, be settled by arbitration. The arbitration commission shall be composed of three members. Each party to the dispute shall appoint one member to the commission, while the third member, who shall be the Chairman, shall be chosen in common agreement between the parties. If the parties fail to agree on the designation of the third member within a period of three months, the third member shall be appointed by the President of the International Court of Justice. In case any of the parties fail to make an appointment within a period of three months the President of the International Court of Justice shall fill the remaining vacancy or vacancies.

2. The arbitration commission shall decide on the matters placed before it by simple majority and its decisions shall be binding on the parties.

3. Arbitration commissions or other international bodies charged with settlement of disputes under this Convention shall inform, through the Secretary-General of the United Nations, the other Contracting States of the existence and nature of disputes and of the terms of their settlement.

Article 17

SIGNATURE

The present Convention shall be open until 31 December 1965 for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other

State invited by the General Assembly of the United Nations to become a Party to the Convention.

Article 18

RATIFICATION

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 19

ACCESSION

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in article 17. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 20

ENTRY INTO FORCE

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the instruments of ratification or accession of at least two land-locked States and two transit States having a sea coast.

2. For each State ratifying or acceding to the Convention after the deposit of the instruments of ratification or accession necessary for the entry into force of this Convention in accordance with paragraph 1 of this article, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 21

REVISION

At the request of one third of the Contracting States, and with the concurrence of the majority of the Contracting States, the Secretary-General of the United Nations shall convene a Conference with a view to the revision of this Convention.

Article 22

NOTIFICATIONS BY THE SECRETARY-GENERAL

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in article 17;

(*a*) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles 17, 18 and 19;

(*b*) of the date on which the present Convention will enter into force, in accordance with article 20;

(*c*) of requests for revision, in accordance with article 21.

Article 23

AUTHENTIC TEXTS

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in article 17.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at the Headquarters of the United Nations, New York, this eighth day of July, one thousand nine hundred and sixty-five.

D. MERCHANT MARINE

Convention on the Intergovernmental Marine Consultative Organization, March 6, 1948*

* 9 U.S.T. 623; T.I.A.S. 4044; 289 U.N.T.S. 48.

CONVENTION OF THE INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

The States parties to the present Convention hereby establish the Intergovernmental Maritime Consultative Organization (hereinafter referred to as "the Organization").

PART I

Purposes of the Organization

Article I

The purposes of the Organization are:

(a) to provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade, and to encourage the general adoption of the highest practicable standards in matters concerning maritime safety and efficiency of navigation;

(b) to encourage the removal of discriminatory action and unnecessary restrictions by Governments affecting shipping engaged in international trade so as to promote the availability of shipping services to the commerce of the world without discrimination; assistance and encouragement given by a Government for the development of its national shipping and for purposes of security does not in itself constitute discrimination, provided that such assistance and encouragement is not based on measures designed to restrict the freedom of shipping of all flags to take part in international trade;

(c) to provide for the consideration by the Organization of matters concerning unfair restrictive practices by shipping concerns in accordance with Part II;

(d) to provide for the consideration by the Organization of any matters concerning shipping that may be referred to it by any organ or Specialized Agency of the United Nations;

(e) to provide for the exchange of information among Governments on matters under consideration by the Organization.

PART II

Functions

Article 2

The functions of the Organization shall be consultative and advisory.

Article 3

In order to achieve the purposes set out in Part I, the functions of the Organization shall be:-

(a) subject to the provisions of Article 4, to consider and make recommendations upon matters arising under Article 1 (a), (b) and (c) that may be remitted to it by Members, by any organ or Specialized Agency of the United Nations or by any other intergovernmental organization or upon matters referred to it under Article 1 (d);

(b) to provide for the drafting of conventions, agreements, or other suitable instruments, and to recommend these to Governments and to intergovernmental organizations, and to convene such conferences as may be necessary;

(c) to provide machinery for consultation among Members and the exchange of information among Governments.

Article 4

In those matters which appear to the Organization capable of settlement through the normal processes of international shipping business the Organization shall so recommend. When, in the opinion of the Organization, any matter concerning unfair restrictive practices by shipping concerns is incapable of settlement through the normal processes of international shipping business, or has in fact so proved, and provided it shall first have been the subject of direct negotiations between the Members concerned, the Organization shall, at the request of one of those Members, consider the matter.

PART III

Membership

Article 5

Membership in the Organization shall be open to all States, subject to the provisions of Part III.

Article 6

Members of the United Nations may become Members of the Organization by becoming parties to the Convention in accordance with the provisions of Article 57.

Article 7

States not Members of the United Nations which have been invited to send representatives to the United Nations Maritime Conference convened in Geneva on the 19th February 1948, may become Members by becoming parties to the Convention in accordance with the provisions of Article 57.

Article 8

Any State not entitled to become a Member under Article 6 or 7 may apply through the Secretary-General of the Organization to become a Member and shall be admitted as a Member upon its becoming a party to the Convention in accordance with the provisions of Article 57 provided that, upon the recommendation of the Council, its application has been approved by two-thirds of the Members other than Associate Members.

Article 9

Any territory or group of territories to which the Convention has been made applicable under Article 58, by the Member having responsibility for its international relations or by the United Nations, may become an Associate Member of the Organization by notification in writing given by such Member or by the United Nations, as the case may be, to the Secretary-General of the United Nations.

Article 10

An Associate Member shall have the rights and obligations of a Member under the Convention except that it shall not have the right to vote in the Assembly or be eligible for membership on the Council or on the Maritime Safety Committee and subject to this the word "Member" in the Convention shall be deemed to include Associate Member unless the context otherwise requires.

Article 11

No State or territory may become or remain a Member of the Organization contrary to a resolution of the General Assembly of the United Nations.

PART IV

Organs

Article 12

The Organization shall consist of an Assembly, a Council, a Maritime Safety Committee, and such subsidiary organs as the Organization may at any time consider necessary; and a Secretariat.

PART V

The Assembly

Article 13

The Assembly shall consist of all the Members.

Article 14

Regular sessions of the Assembly shall take place once every two years. Extraordinary sessions shall be convened after a notice of sixty days whenever one-third of the Members give notice to the Secretary-General that they desire a session to be arranged, or at any time if deemed necessary by the Council, after a notice of sixty days.

Article 15

A majority of the Members other than Associate Members shall constitute a quorum for the meetings of the Assembly.

Article 16

The functions of the Assembly shall be:

(a) to elect at each regular session from among its Members, other than Associate Members, its President and two Vice Presidents who shall hold office until the next regular session,

(b) to determine its own rules of procedure except as otherwise provided in the Convention;

(c) to establish any temporary or, upon recommendation of the Council, permanent subsidiary bodies it may consider to be necessary;

(d) to elect the Members to be represented on the Council, as provided in Article 17, and on the Maritime Safety Committee as provided in Article 28;

(e) to receive and consider the reports of the Council, and to decide upon any question referred to it by the Council;

(f) to vote the budget and determine the financial arrangements of the Organization, in accordance with Part IX;

(g) to review the expenditures and approve the accounts of the Organization;

(h) to perform the functions of the Organization, provided that in matters relating to Article 3 (a) and (b), the Assembly shall refer such matters to the Council for formulation by it of any recommendations or instruments thereon; provided further that any recommendations or instruments submitted to the Assembly by the Council and not accepted by the Assembly shall be referred back to the Council for further consideration with such observations as the Assembly may make;

(i) to recommend to Members for adoption regulations concerning maritime safety, or amendments to such regulations, which have been referred to it by the Maritime Safety Committee through the Council;

(j) to refer to the Council for consideration or decision any matters within the scope of the Organization, except that the function of making recommendations under paragraph (i) of this Article shall not be delegated.

PART VI

The Council

Article 17

The Council shall consist of sixteen Members and shall be composed as follows:

(a) six shall be governments of the nations with the largest interest in providing international shipping services;

(b) six shall be governments of other nations with the largest interest in international seaborne trade;

(c) two shall be elected by the Assembly from among the governments of nations having a substantial interest in providing international shipping services, and

(d) two shall be elected by the Assembly from among the governments of nations having a substantial interest in international seaborne trade.

In accordance with the principles set forth in this Article the first Council shall be constituted as provided in Appendix I to the present Convention.

ARTICLE 18

Except as provided in Appendix I to the present Convention, the Council shall determine for the purpose of Article 17 (a), the Members, governments of nations with the largest interest in providing international shipping services, and shall also determine, for the purpose of Article 17 (c), the Members, governments of nations having a substantial interest in providing such services. Such determinations shall be made by a majority vote of the Council including the concurring votes of a majority of the Members represented on the Council under Article 17 (a) and (c). The Council shall further determine for the purpose of Article 17 (b), the Members, governments of nations with the largest interest in international seaborne trade. Each Council shall make these determinations at a reasonable time before each regular session of the Assembly.

ARTICLE 19

Members represented on the Council in accordance with Article 17 shall hold office until the end of the next regular session of the Assembly. Members shall be eligible for re-election.

ARTICLE 20

(a) The Council shall elect its Chairman and adopt its own rules of procedure except as otherwise provided in the Convention.

(b) Twelve members of the Council shall constitute a quorum.

(c) The Council shall meet upon one month's notice as often as may be necessary for the efficient discharge of its duties upon the summons of its Chairman or upon request by not less than four of its members. It shall meet at such places as may be convenient.

ARTICLE 21

The Council shall invite any Member to participate, without vote, in its deliberations on any matter of particular concern to that Member.

ARTICLE 22

(a) The Council shall receive the recommendations and reports of the Maritime Safety Committee and shall transmit them to the Assembly and, when the Assembly is not in session, to the Members for information, together with the comments and recommendations of the Council.

(b) Matters within the scope of Article 29 shall be considered by the Council only after obtaining the views of the Maritime Safety Committee thereon.

ARTICLE 23

The Council, with the approval of the Assembly, shall appoint the Secretary-General. The Council shall also make provision for the appointment of such other personnel as may be necessary, and determine the terms and conditions of service of the Secretary-General and other personnel, which terms and conditions shall conform as far as possible with those of the United Nations and its Specialized Agencies.

ARTICLE 24

The Council shall make a report to the Assembly at each regular session on the work of the Organization since the previous regular session of the Assembly.

ARTICLE 25

The Council shall submit to the Assembly the budget estimates and the financial statements of the Organization, together with its comments and recommendations.

ARTICLE 26

The Council may enter into agreements or arrangements covering the relationship of the Organization with other organizations, as provided for in Part XII. Such agreements or arrangements shall be subject to approval by the Assembly.

ARTICLE 27

Between sessions of the Assembly, the Council shall perform all the functions of the Organization, except the function of making recommendations under Article 16 (i).

PART VII

Maritime Safety Committee

ARTICLE 28

(a) The Maritime Safety Committee shall consist of fourteen Members elected by the Assembly from the Members, governments of those nations having an important interest in maritime safety, of which not less than eight shall be the largest shipowning nations, and the remainder shall be elected so as to ensure adequate representation of Members, governments of other nations with an important interest in maritime safety, such as nations interested in the supply of large numbers of crews or in the carriage of large numbers of berthed and unberthed passengers, and of major geographical areas.

(b) Members shall be elected for a term of four years and shall be eligible for re-election.

ARTICLE 29

(a) The Maritime Safety Committee shall have the duty of considering any matter within the scope of the Organization and concerned with aids to navigation, construction and equipment of vessels, manning from a safety standpoint, rules for the prevention of collisions, handling of dangerous cargoes, maritime safety procedures and requirements, hydrographic information, log-books and navigational records, marine casualty investigation, salvage and rescue, and any other matters directly affecting maritime safety.

(b) The Maritime Safety Committee shall provide machinery for performing any duties assigned to it by the Convention, or by the Assembly, or any duty within the scope of this Article which may be assigned to it by any other intergovernmental instrument.

(c) Having regard to the provisions of Part XII, the Maritime Safety Committee shall have the duty of maintaining such close relationship with other intergovernmental bodies concerned with transport and communications as may further the object of the Organization in promoting maritime safety and facilitate the co-ordination of activities in the fields of shipping, aviation, telecommunications and meteorology with respect to safety and rescue.

ARTICLE 30

The Maritime Safety Committee, through the Council, shall:

(a) submit to the Assembly at its regular sessions proposals made by Members for safety regulations or for amendments to existing safety regulations, together with its comments or recommendations thereon;

(b) report to the Assembly on the work of the Maritime Safety Committee since the previous regular session of the Assembly.

ARTICLE 31

The Maritime Safety Committee shall meet once a year and at other times upon request of any five of its members. It shall elect its officers once a year and shall adopt its own rules of procedure. A majority of its members shall constitute a quorum.

ARTICLE 32

The Maritime Safety Committee shall invite any Member to participate, without vote, in its deliberations on any matter of particular concern to that Member.

PART VIII

The Secretariat

ARTICLE 33

The Secretariat shall comprise the Secretary-General, a Secretary of the Maritime Safety Committee and such staff as the Organization may require. The Secretary-General shall be the chief administrative officer of the Organization, and shall, subject to the provisions of Article 23, appoint the above-mentioned personnel.

ARTICLE 34

The Secretariat shall maintain all such records as may be necessary for the efficient discharge of the functions of the Organization and shall prepare, collect and circulate the papers, documents, agenda, minutes and information that may be required for the work of the Assembly, the Council, the Maritime Safety Committee, and such subsidiary organs as the Organization may establish.

ARTICLE 35

The Secretary-General shall prepare and submit to the Council the financial statements for each year and the budget estimates on a biennial basis, with the estimates for each year shown separately.

ARTICLE 36

The Secretary-General shall keep Members informed with respect to the activities of the Organization. Each Member may appoint one or more representatives for the purpose of communication with the Secretary-General.

ARTICLE 37

In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials. Each Member on its part undertakes to respect the exclusively international character of the respon-

sibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

ARTICLE 38

The Secretary-General shall perform such other tasks as may be assigned to him by the Convention, the Assembly, the Council and the Maritime Safety Committee.

PART IX

Finances

Article 39

Each Member shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on the Council, the Maritime Safety Committee, other committees and subsidiary bodies.

Article 40

The Council shall consider the financial statements and budget estimates prepared by the Secretary-General and submit them to the Assembly with its comments and recommendations.

Article 41

(a) Subject to any agreement between the Organization and the United Nations, the Assembly shall review and approve the budget estimates.

(b) The Assembly shall apportion the expenses among the Members in accordance with a scale to be fixed by it after consideration of the proposals of the Council thereon.

Article 42

Any Member which fails to discharge its financial obligation to the Organization within one year from the date on which it is due, shall have no vote in the Assembly, the Council, or the Maritime Safety Committee unless the Assembly, at its discretion, waives this provision.

PART X

Voting

Article 43

The following provisions shall apply to voting in the Assembly, the Council and the Maritime Safety Committee:

(a) Each Member shall have one vote.

(b) Except as otherwise provided in the Convention or in any international agreement which confers functions on the Assembly, the Council, or the Maritime Safety Committee, decisions of these organs shall be by a majority vote of the Members present and voting and, for decisions where a two-thirds majority vote is required, by a two-thirds majority vote of those present.

(c) For the purpose of the Convention, the phrase "Members present and voting" means "Members present and casting an affirmative or negative vote". Members which abstain from voting shall be considered as not voting.

PART XI

Headquarters of the Organization

Article 44

(a) The headquarters of the Organization shall be established in London.

(b) The Assembly may by a two-thirds majority vote change the site of the headquarters if necessary.

(c) The Assembly may hold sessions in any place other than the headquarters if the Council deems it necessary.

PART XII

Relationship with the United Nations and other Organizations

Article 45

The Organization shall be brought into relationship with the United Nations in accordance with Article 57 of the Charter of the United Nations as the Specialized Agency in the field of shipping. This relationship shall be effected through an agreement with the United Nations under Article 63 of the Charter of the United Nations, which agreement shall be concluded as provided in Article 26.

TS 993.
59 Stat. 1031.

Article 46

The Organization shall co-operate with any Specialized Agency of the United Nations in matters which may be the common concern of the Organization and of such Specialized Agency, and shall consider such matters and act with respect to them in accord with such Specialized Agency.

Article 47

The Organization may, on matters within its scope, co-operate with other inter-governmental organizations which are not Specialized Agencies of the United Nations, but whose interests and activities are related to the purposes of the Organization.

Article 48

The Organization may, on matters within its scope, make suitable arrangements for consultation and co-operation with non-governmental international organizations.

Article 49

Subject to approval by a two-thirds majority vote of the Assembly, the Organization may take over from any other international organizations, governmental or non-governmental, such functions, resources and obligations within the scope of the Organization as may be transferred to the Organization by international agreements or by mutually acceptable arrangements entered into between competent authorities of the respective organizations. Similarly, the Organization may take over any administrative functions which are within its scope and which have been entrusted to a government under the terms of any international instrument.

PART XIII

Legal Capacity, Privileges and Immunities

Article 50

The legal capacity, privileges and immunities to be accorded to, or in connection with, the Organization, shall be derived from and governed by the General Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on the 21st November, 1947, [1] subject to such modifications as may be set forth in the final (or revised) text of the Annex approved by the Organization in accordance with Sections 36 and 38 of the said General Convention.

Article 51

Pending its accession to the said General Convention in respect of the Organization, each Member undertakes to apply the provisions of Appendix II to the present Convention.

[1] 33 United Nations Treaty Series 261.

PART XIV

Amendments

Article 52

Texts of proposed amendments to the Convention shall be communicated by the Secretary-General to Members at least six months in advance of their consideration by the Assembly. Amendments shall be adopted by a two-thirds majority vote of the Assembly, including the concurring votes of a majority of the Members represented on the Council. Twelve months after its acceptance by two-thirds of the Members of the Organization, other than Associate Members, each amendment shall come into force for all Members except those which, before it comes into force, make a declaration that they do not accept the amendment. The Assembly may by a two-thirds majority vote determine at the time of its adoption that an amendment is of such a nature that any Member which has made such a declaration and which does not accept the amendment within a period of twelve months after the amendment comes into force shall, upon the expiration of this period, cease to be a party to the Convention.

Article 53

Any amendment adopted under Article 52 shall be deposited with the Secretary-General of the United Nations, who will immediately forward a copy of the amendment to all Members.

Article 54

A declaration or acceptance under Article 52 shall be made by the communication of an instrument to the Secretary-General for deposit with the Secretary-General of the United Nations. The Secretary-General will notify Members of the receipt of any such instrument and of the date when the amendment enters into force.

PART XV

Interpretation

Article 55

Any question or dispute concerning the interpretation or application of the Convention shall be referred for settlement to the Assembly, or shall be settled in such other manner as the parties to the dispute agree. Nothing in this Article shall preclude

the Council or the Maritime Safety Committee from settling any such question or dispute that may arise during the exercise of their functions.

Article 56

Any legal question which cannot be settled as provided in Article 55 shall be referred by the Organization to the International Court of Justice for an advisory opinion in accordance with Article 96 of the Charter of the United Nations.

PART XVI

Miscellaneous Provisions

Article 57

Signature and Acceptance

Subject to the provisions of Part III the present Convention shall remain open for signature or acceptance and States may become parties to the Convention by:

(a) Signature without reservation as to acceptance;

(b) Signature subject to acceptance followed by acceptance; or

(c) Acceptance.

Acceptance shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.

Article 58

Territories

(a) Members may make a declaration at any time that their participation in the Convention includes all or a group or a single one of the territories for whose international relations they are responsible.

(b) The Convention does not apply to territories for whose international relations Members are responsible unless a declaration to that effect has been made on their behalf under the provisions of paragraph (a) of this Article.

(c) A declaration made under paragraph (a) of this Article shall be communicated to the Secretary-General of the United Nations and a copy of it will be forwarded by him to all States invited to the United Nations Maritime Conference and to such other States as may have become Members.

(d) In cases where under a trusteeship agreement the United Nations is the administering authority, the United Nations may accept the Convention on behalf of one, several, or all of the trust territories in accordance with the procedure set forth in Article 57.

Article 59

Withdrawal

(a) Any Member may withdraw from the Organization by written notification given to the Secretary-General of the United Nations, who will immediately inform the other Members and the Secretary-General of the Organization of such notification. Notification of withdrawal may be given at any time after the expiration of twelve months from the date on which the Convention has come into force. The withdrawal shall take effect upon the expiration of twelve months from the date on which such written notification is received by the Secretary-General of the United Nations.

(b) The application of the Convention to a territory or group of territories under Article 58 may at any time be terminated by written notification given to the Secretary-General of the United Nations by the Member responsible for its international relations or, in the case of a trust territory of which the United Nations is the administering authority, by the United Nations. The Secretary-General of the United Nations will immediately inform all Members and the Secretary-General of the Organization of such notification. The notification shall take effect upon the expiration of twelve months from the date on which it is received by the Secretary-General of the United Nations.

PART XVII

Entry into Force

Article 60

The present Convention shall enter into force on the date when 21 States of which 7 shall each have a total tonnage of not less than 1,000,000 gross tons of shipping, have become parties to the Convention in accordance with Article 57. Post, p. 691.

ARTICLE 61

The Secretary-General of the United Nations will inform all States invited to the United Nations Maritime Conference and such other States as may have become Members, of the date when each State becomes party to the Convention, and also of the date on which the Convention enters into force.

ARTICLE 62

The present Convention, of which the English, French and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who will transmit certified copies thereof to each of the States invited to the United Nations Maritime Conference and to such other States as may have become Members.

ARTICLE 63

The United Nations is authorized to effect registration of the Convention as soon as it comes into force.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

Done at Geneva this sixth day of March 1948

Afghanistan Afghanistan Afghanistán		
Albania Albanie Albania		
Argentina		A MALVAGNI
Argentine	B LLAMBI C A PARDO	GUILLERMO MONTENEGRO
Argentina	B MAYANTZ A C L	JUAN EUGENIO PEFFABET
	Subject to acceptance	
Australia Australie Australia	JOHN. A. BEASLEY Subject to Acceptance by Australian Government.	
Austria Autriche Austria		
Belgium [1] Belgique Bélgica	Subject to acceptance M H DE VOS.	Sous réserve de ratification J. A. DENOËL

[1] In a note accompanying the instrument of ratification, deposited with the Secretary-General of the United Nations on Aug. 9, 1951, the Belgian Minister for Foreign Affairs stated that the ratification was valid only for the metropolitan territories and that the territories of the Belgian Congo and the Trust Territories of Ruanda-Urundi were expressly excluded.

APPENDIX–I
(Referred to in Article 17)

Composition of the First Council

In accordance with the principles set forth in Article 17 the first Council shall be constituted as follows:

(a) The six Members under Article 17 (a) being

Greece	Sweden
Netherlands	United Kingdom
Norway	United States

(b) The six Members under Article 17 (b) being

Argentine	Canada
Australia	France
Belgium	India

(c) Two Members to be elected by the Assembly under Article 17 (c) from a panel nominated by the six Members named in paragraph (a) of this Appendix.

(d) Two Members elected by the Assembly under Article 17 (d) from among the Members having a substantial interest in international seaborne trade.

APPENDIX II
(referred to in Article 51)

Legal Capacity, Privileges and Immunities

The following provisions on legal capacity, privileges and immunities shall be applied by Members to, or in connection with, the Organization pending their accession to the General Convention on Privileges and Immunities of Specialized Agencies in respect of the Organization.

Section 1 The Organization shall enjoy in the territory of each of its Members such legal capacity as is necessary for the fulfilment of its purposes and the exercise of its functions

Section 2. (a) The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and the exercise of its functions.

23590 O—59——42

(b) Representatives of Members including alternates and advisers, and officials and employees of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

Section 3. In applying the provisions of Sections 1 and 2 of this Appendix, the Members shall take into account as far as possible the standard clauses of the General Convention on the Privileges and Immunities of the Specialized Agencies.

Convention on Facilitation of International Maritime Traffic, April 9, 1965*

* 18 U.S.T. 412; T.I.A.S. 6251; 591 U.N.T.S. 265.

CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC

The Contracting Governments:

Desiring to facilitate maritime traffic by simplifying and reducing to a minimum the formalities, documentary requirements and procedures on the arrival, stay and departure of ships engaged in international voyages;

Have agreed as follows:

Article I

The Contracting Governments undertake to adopt, in accordance with the provisions of the present Convention and its Annex, all appropriate measures to facilitate and expedite international maritime traffic and to prevent unnecessary delays to ships and to persons and property on board.

Article II

(1) The Contracting Governments undertake to co-operate, in accordance with the provisions of the present Convention, in the formulation and application of measures for the facilitation of the arrival, stay and departure of ships. Such measures shall be, to the fullest extent practicable, not less favourable than measures applied in respect of other means of international transport; however, these measures may differ according to particular requirements.

(2) The measures for the facilitation of international maritime traffic provided for under the present Convention and its Annex apply equally to the ships of coastal and non-coastal States the Governments of which are Parties to the present Convention.

(3) The provisions of the present Convention do not apply to warships or pleasure yachts.

Article III

The Contracting Governments undertake to co-operate in securing the highest practicable degree of uniformity in formalities, documentary requirements and procedures in all matters in which such uniformity will facilitate and improve international maritime traffic and keep to a minimum any alterations in formalities, documentary requirements and procedures necessary to meet special requirements of a domestic nature.

Article IV

With a view to achieving the ends set forth in the preceding Articles of the present Convention, the Contracting Governments undertake to co-operate with each other or through the Inter-Governmental Maritime Consultative Organization (hereinafter called the "Organization") in matters relating to formalities, documentary requirements and procedures, as well as their application to international maritime traffic.

Article V

(1) Nothing in the present Convention or its Annex shall be interpreted as preventing the application of any wider facilities which a Contracting Government grants or may grant in future in respect of international maritime traffic under its national laws or the provisions of any other international agreement.

(2) Nothing in the present Convention or its Annex shall be interpreted as precluding a Contracting Government from applying temporary measures considered by that Government to be necessary to preserve public morality, order and security or to prevent the introduction or spread of diseases or pests affecting public health, animals or plants.

(3) All matters that are not expressly provided for in the present Convention remain subject to the legislation of the Contracting Governments.

Article VI

For the purposes of the present Convention and its Annex:

(*a*) "Standards" are those measures the uniform application of which by Contracting Governments in accordance with the Convention is necessary and practicable in order to facilitate international maritime traffic;

(*b*) "Recommended Practices" are those measures the application of which by Contracting Governments is desirable in order to facilitate international maritime traffic.

Article VII

(1) The annex to the present Convention may be amended by the Contracting Governments, either at the proposal of one of them or by a conference convened for that purpose.

(2) Any Contracting Government may propose an amendment to the

Annex by forwarding a draft amendment to the Secretary-General of the Organization (hereinafter called the "Secretary-General"):

(*a*) Upon the express request of a Contracting Government, the Secretary-General shall communicate any such proposal directly to all Contracting Governments for their consideration and acceptance. If he receives no such express request, the Secretary-General may proceed to such consultations as he deems advisable before communicating the proposal to the Contracting Governments;

(*b*) Each Contracting Government shall notify the Secretary-General within one year from the receipt of any such communication whether or not it accepts the proposal;

(*c*) Any such notification shall be made in writing to the Secretary-General who shall inform all Contracting Governments of its receipt;

(*d*) Any amendment to the Annex under this paragraph shall enter into force six months after the date on which the amendment is accepted by a majority of the Contracting Governments;

(*e*) The Secretary-General shall inform all Contracting Governments of any amendment which enters into force under this paragraph, together with the date on which such amendment shall enter into force.

(3) A conference of the Contracting Governments to consider amendments to the Annex shall be convened by the Secretary-General upon the request of at least one-third of these Governments. Every amendment adopted by such conference by a two-thirds majority of the Contracting Governments present and voting shall enter into force six months after the date on which the Secretary-General notifies the Contracting Governments of the amendment adopted.

(4) The Secretary-General shall notify promptly all signatory Governments of the adoption and entry into force of any amendment under this Article.

Article VIII

(1) Any Contracting Government that finds it impracticable to comply with any Standard by bringing its own formalities, documentary requirements or procedures into full accord with it or which deems it necessary for special reasons to adopt formalities, documentary requirements or procedures differing from that Standard, shall so inform the Secretary-General and notify him of the differences between its own practice and such Standard. Such notification shall be made as soon as possible after entry into force of the present Convention for the Government concerned, or after the adoption of such differing formalities, documentary requirements or procedures.

(2) Notification by a Contracting Government of any such difference in the case of an amendment to a Standard or of a newly adopted Standard shall be made to the Secretary-General as soon as possible after the entry into force of such amended or newly adopted Standard, or after the adoption of such differing formalities, documentary requirements or procedures and may include an indication of the action proposed to bring the formalities, documentary requirements or procedures into full accord with the amended or newly adopted Standard.

(3) Contracting Governments are urged to bring their formalities, documentary requirements and procedures into accord with the Recommended Practices insofar as practicable. As soon as any Contracting Government brings its own formalities, documentary requirements and procedures into accord with any Recommended Practice, it shall notify the Secretary-General thereof.

(4) The Secretary-General shall inform the Contracting Governments of any notification made to him in accordance with the preceding paragraphs of this Article.

Article IX

The Secretary-General shall convene a conference of the Contracting Governments for revision or amendment of the present Convention at the request of not less than one-third of the Contracting Governments. Any revision or amendments shall be adopted by a two-thirds majority vote of the Conference and then certified and communicated by the Secretary-General to all Contracting Governments for their acceptance. One year after the acceptance of the revision or amendments by two-thirds of the Contracting Governments, each revision or amendment shall enter into force for all Contracting Governments except those which, before its entry into force, make a declaration that they do not accept the revision or amendment. The Conference may by a two-thirds majority vote determine at the time of its adoption that a revision or amendment is of such a nature that any Contracting Government which has made such a declaration and which does not accept the revision or amendment within a period of one year after the revision or amendment enters into force shall, upon the expiration of this period, cease to be a party to the Convention.

Article X

(1) The present Convention shall remain open for signature for six months from this day's date and shall thereafter remain open for accession.

(2) The Governments of States Members of the United Nations, or of any of the specialized agencies, or the International Atomic Energy Agency, or Parties to the Statute of the International Court of Justice[1] may become Parties to the present Convention by:

[1] TS 993; 59 Stat. 1055.

(*a*) signature without reservation as to acceptance;

(*b*) signature with reservation as to acceptance followed by acceptance; or

(*c*) accession.

Acceptance or accession shall be effected by the deposit of an instrument with the Secretary-General.

(3) The Government of any State not entitled to become a Party under paragraph 2 of this Article may apply through the Secretary-General to become a party and shall be admitted as a Party in accordance with paragraph 2, provided that its application has been approved by two-thirds of the Members of the Organization other than Associate Members.

Article XI

The present Convention shall enter into force sixty days after the date upon which the Governments of at least ten States have either signed it without reservation as to acceptance or have deposited instruments of acceptance or accession. It shall enter into force for a Government which subsequently accepts it or accedes to it sixty days after the deposit of the instrument of acceptance or accession.

Article XII

Three years after entry into force of the present Convention with respect to a Contracting Government, such Government may denounce it by notification in writing addressed to the Secretary-General who shall notify all Contracting Governments of the content and date of receipt of any such notification. Such denunciation shall take effect one year, or such longer period as may be specified in the notification, after its receipt by the Secretary-General.

Article XIII

(1) (*a*) The United Nations in cases where they are the administering authority for a territory, or any Contracting Government responsible for the international relations of a territory, shall as soon as possible consult with such territory in an endeavour to extend the present Convention to that territory, and may at any time by notification in writing given to the Secretary-General declare that the Convention shall extend to such territory.

(*b*) The present Convention shall from the date of the receipt of the notification or from such other date as may be specified in the notification extend to the territory named therein.

(*c*) The provisions of Article VIII of the present Convention shall apply to any territory to which the Convention is extended in accordance with the present Article; for this pur-

pose, the expression "its own formalities, documentary requirements or procedures" shall include those in force in that territory.

(*d*) The present Convention shall cease to extend to any territory one year after the receipt by the Secretary-General of a notification to this effect, or on such later date as may be specified therein.

(2) The Secretary-General shall inform all the Contracting Governments of the extension of the present Convention to any territory under paragraph 1 of this Article, stating in each case the date from which the Convention has been so extended.

Article XIV

The Secretary-General shall inform all signatory Governments, all Contracting Governments and all Members of the Organization of:

(*a*) the signatures affixed to the present Convention and the dates thereof;

(*b*) the deposit of instruments of acceptance and accession together with the dates of their deposit;

(*c*) the date on which the Convention enters into force in accordance with Article XI;

(*d*) any notification received in accordance with Articles XII and XIII and the date thereof;

(*e*) the convening of any conference under Articles VII or IX.

Article XV

The present Convention and its Annex shall be deposited with the Secretary-General who shall transmit certified copies thereof to signatory Governments and to acceding Governments. As soon as the present Convention enters into force, it shall be registered by the Secretary-General in accordance with Article 102 of the Charter of the United Nations. [1]

Article XVI

The present Convention and its Annex shall be established in the English and French languages, both texts being equally authentic. Official translations shall be prepared in the Russian and Spanish languages and shall be deposited with the signed originals.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE at London this ninth day of April 1965.

[1] TS 993; 59 Stat. 1031.

E. SOCIAL CONDITIONS

1. Safety at Sea

International Convention for the Safety of Life at Sea (SOLAS 1960), June 17, 1960*

* 16 U.S.T. 188; T.I.A.S. 5780; 536 U.N.T.S. 27.

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960

The Governments of the Argentine Republic, the Commonwealth of Australia, the Kingdom of Belgium, the United States of Brazil, the People's Republic of Bulgaria, Cameroun, Canada, the Republic of China, the Republic of Cuba, the Czechoslovak Republic, the Kingdom of Denmark, the Dominican Republic, the Republic of Finland, the French Republic, the Federal Republic of Germany, the Kingdom of Greece, the Hungarian People's Republic, the Republic of Iceland, the Republic of India, Ireland, the State of Israel, the Italian Republic, Japan, the Republic of Korea, Kuwait, the Republic of Liberia, the United Mexican States, the Kingdom of the Netherlands, New Zealand, the Kingdom of Norway, Pakistan, the Republic of Panama, the Republic of Peru, the Republic of the Philippines, the Polish People's Republic, the Portuguese Republic, the Spanish State, the Kingdom of Sweden, the Swiss Confederation, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the Republic of Venezuela, and the Federal People's Republic of Yugoslavia, being desirous of promoting safety of life at sea by establishing in common agreement uniform principles and rules directed thereto:

Considering that this end may best be achieved by the conclusion of a Convention to replace the International Convention for the Safety of Life at Sea, 1948: [1]

Article I

(*a*) The Contracting Governments undertake to give effect to the provisions of the present Convention and of the Regulations annexed thereto, which shall be deemed to constitute an integral part of the present Convention. Every reference to the present Convention implies at the same time a reference to these Regulations.

(*b*) The Contracting Governments undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the present Convention full and complete effect, so as to ensure that, from the point of view of safety of life, a ship is fit for the service for which it is intended.

Article II

The ships to which the present Convention applies are ships registered in countries the Governments of which are Contracting Governments, and ships registered in territories to which the present Convention is extended under Article XIII.

Article III

Laws, Regulations

The Contracting Governments undertake to communicate to and deposit with the Inter-Governmental Maritime Consultative Organization (hereinafter called the Organization):

(*a*) a list of non-governmental agencies which are authorised to act in their behalf in the administration of measures for safety of life at sea for circulation to the Contracting Governments for the information of their officers;

(*b*) the text of laws, decrees, orders and regulations which shall have been promulgated on the various matters within the scope of the present Convention;

(*c*) a sufficient number of specimens of their Certificates issued under the provisions of the present Convention for circulation to the Contracting Governments for the information of their officers.

Article IV

Cases of Force Majeure

(*a*) No ship, which is not subject to the provisions of the present Convention at the time of its departure on any voyage, shall become subject to the provisions of the present Convention on account of any deviation from its intended voyage due to stress of weather or any other cause of *force majeure*.

(*b*) Persons who are on board a ship by reason of *force majeure* or in consequence of the obligation laid upon the master to carry shipwrecked or other persons shall not be taken into account for the purpose of ascertaining the application to a ship of any provisions of the present Convention.

Article V

Carriage of Persons in Emergency

(*a*) For the purpose of moving persons from any territory in order to avoid a threat to the security of their lives a Contracting Government may permit the carriage of a larger number of persons in its ships than is otherwise permissible under the present Convention.

(*b*) Such permission shall not deprive other Contracting Governments of any right of control under the present Convention over such ships which come within their ports.

(*c*) Notice of any such permission, together with a statement of the circumstances, shall be sent to the Organization by the Contracting Government granting such permission.

Article VI

Suspension in case of War

(*a*) In case of war or other hostilities, a Contracting Government which considers that it is affected, whether as a belligerent or as a neutral, may suspend the operation of the whole or any part of the Regulations annexed hereto. The suspending Government shall immediately give notice of any such suspension to the Organization.

(*b*) Such suspension shall not deprive other Contracting Governments of any right of control under the present Convention over the ships of the suspending Government when such ships are within their ports.

(*c*) The suspending Government may at any time terminate such suspension and shall immediately give notice of such termination to the Organization.

(*d*) The Organization shall notify all Contracting Governments of any suspension or termination of suspension under this Article.

Article VII

Prior Treaties and Conventions

(*a*) As between the Contracting Governments the present Convention replaces and abrogates the International Convention for the Safety of Life at Sea which was signed in London on 10 June 1948.

(*b*) All other treaties, conventions and arrangements relating to safety of life at sea, or matters appertaining thereto, at present in force between

Governments parties to the present Convention, shall continue to have full and complete effect during the terms thereof as regards:

(i) ships to which the present Convention does not apply;

(ii) ships to which the present Convention applies, in respect of matters for which it has not expressly provided.

(*c*) To the extent, however, that such treaties, conventions or arrangements conflict with the provisions of the present Convention, the provisions of the present Convention shall prevail.

(*d*) All matters which are not expressly provided for in the present Convention remain subject to the legislation of the Contracting Governments.

Article VIII

Special Rules drawn up by Agreement

When in accordance with the present Convention special rules are drawn up by agreement between all or some of the Contracting Governments, such rules shall be communicated to the Organization for circulation to all Contracting Governments.

Article IX

Amendments

(*a*) (i) The present Convention may be amended by unanimous agreement between the Contracting Governments.

(ii) Upon the request of any Contracting Government a proposed amendment shall be communicated by the Organization to all Contracting Governments for consideration and acceptance under this paragraph.

(*b*) (i) An amendment to the present Convention may be proposed to the Organization at any time by any Contracting Government and such proposal, if adopted by a two-thirds majority of the Assembly of the Organization (hereinafter called the Assembly), upon recommendation adopted by a two-thirds majority of the Maritime Safety Committee of the Organization (hereinafter called the Maritime Safety Committee), shall be communicated by the Organization to all Contracting Governments for their acceptance.

(ii) Any such recommendation by the Maritime Safety Committee shall be communicated by the Organization to all Contracting Governments for their consideration at least six months before it is considered by the Assembly.

(*c*) (i) A conference of Governments to consider amendments to the present Convention proposed by any Contracting Government shall at any time be convened by the Organization upon the request of one-third of the Contracting Governments.

(ii) Every amendment adopted by such conference by a two-thirds majority of the Contracting Governments shall be communicated by the Organization to all Contracting Governments for their acceptance.

(*d*) Any amendment communicated to Contracting Governments for their acceptance under paragraph (*b*) or (*c*) of this Article shall come into force for all Contracting Governments, except those which before it comes into force make a declaration that they do not accept the amendment, twelve months after the date on which the amendment is accepted by two-thirds of the Contracting Governments including two-thirds of the Governments represented on the Maritime Safety Committee.

(*e*) The Assembly, by a two-thirds majority vote, including two-thirds of the Governments represented on the Maritime Safety Committee, and subject to the concurrence of two-thirds of the Contracting Governments to the present Convention, or a conference convened under paragraph (*c*) of this Article by a two-thirds majority vote, may determine at the time of its adoption that the amendment is of such an important nature that any Contracting Government which makes a declaration under paragraph (*d*) of this Article and which does not accept the amendment within a period of twelve months after the amendment comes into force, shall, upon the expiry of this period, cease to be a party to the present Convention.

(*f*) Any amendment to the present Convention made under this Article which relates to the structure of a ship shall apply only to ships the keels of which are laid after the date on which the amendment comes into force.

(*g*) The Organisation shall inform all Contracting Governments of any amendments which come into force under this Article, together with the date on which such amendments shall come into force.

(*h*) Any acceptance or declaration under this Article shall be made by a notification in writing to the Organisation, which shall notify all Contracting Governments of the receipt of the acceptance or declaration.

Article X

Signature and Acceptance

(*a*) The present Convention shall remain open for signature for one month from this day's date and shall thereafter remain open for acceptance. Governments of States may become parties to the Convention by:

(i) signature without reservation as to acceptance;

(ii) signature subject to acceptance followed by acceptance; or

(iii) acceptance.

(*b*) Acceptance shall be effected by the deposit of an instrument with the Organisation, which shall inform all Governments that have already accepted the Convention of each acceptance received and of the date of its receipt.

Article XI

Coming into Force

(*a*) The present Convention shall come into force twelve months after the date on which not less than fifteen acceptances, including seven by countries each with not less than one million gross tons of shipping, have been deposited in accordance with Article X. The Organization shall inform all Governments which have signed or accepted the present Convention of the date on which it comes into force.

(*b*) Acceptances deposited after the date on which the present Convention comes into force shall take effect three months after the date of their deposit.

Article XII

Denunciation

(*a*) The present Convention may be denounced by any Contracting Government at any time after the expiry of five years from the date on which the Convention comes into force for that Government.

(*b*) Denunciation shall be effected by a notification in writing addressed to the Organization which shall notify all the other Contracting Governments of any denunciation received and of the date of its receipt.

(*c*) A denunciation shall take effect one year, or such longer period as may be specified in the notification, after its receipt by the Organization.

Article XIII

Territories

(*a*) (i) The United Nations in cases where they are the administering authority for a territory or any Contracting Government responsible for the international relations of a territory shall as soon as possible consult with such territory in an endeavour to extend the present Convention to that territory and may at any time by notification in writing given to the Organization declare that the present Convention shall extend to such territory.

(ii) The present Convention shall from the date of the receipt of the notification or from such other date as may be specified in the notification extend to the territory named therein.

(*b*) (i) The United Nations or any Contracting Government which has made a declaration under paragraph (*a*) of this Article, at any time after the expiry of a period of five years from the date on which the Convention has been so extended to any territory, may by a notification in writing given to the Organization declare that the present Convention shall cease to extend to any such territory named in the notification.

(ii) The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be

specified therein, after the date of receipt of the notification by the Organization.

(*c*) The Organization shall inform all the Contracting Governments of the extension of the present Convention to any territories under paragraph (*a*) of this Article, and of the termination of any such extension under the provisions of paragraph (*b*), stating in each case the date from which the present Convention has been or will cease to be so extended.

Article XIV

Registration

(*a*) The present Convention shall be deposited in the archives of the Organization and the Secretary-General of the Organization shall transmit certified true copies thereof to all Signatory Governments and to all other Governments which accept the present Convention.

(*b*) As soon as the present Convention comes into force it shall be registered by the Organization with the Secretary-General of the United Nations.

Done in London this seventeenth day of June, 1960, in a single copy in English and French, each text being equally authoritative.

The original texts will be deposited with the Inter-Governmental Maritime Consultative Organization, together with texts in the Russian and Spanish languages which will be translations.

International Convention for the Safety of Life at Sea (SOLAS 1974), November 1, 1974*

* T.I.A.S. 9700, U.N. Regist. No. 18961.

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

THE CONTRACTING GOVERNMENTS,

BEING DESIROUS of promoting safety of life at sea by establishing in common agreement uniform principles and rules directed thereto,

CONSIDERING that this end may best be achieved by the conclusion of a Convention to replace the International Convention for the Safety of Life at Sea, 1960,[1] taking account of developments since that Convention was concluded,

HAVE AGREED as follows:

ARTICLE I

General Obligations under the Convention

(a) The Contracting Governments undertake to give effect to the provisions of the present Convention and the Annex thereto, which shall constitute an integral part of the present Convention. Every reference to the present Convention constitutes at the same time a reference to the Annex.

(b) The Contracting Governments undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the present Convention full and complete effect, so as to ensure that, from the point of view of safety of life, a ship is fit for the service for which it is intended.

ARTICLE II

Application

The present Convention shall apply to ships entitled to fly the flag of States the Governments of which are Contracting Governments.

ARTICLE III

Laws, Regulations

The Contracting Governments undertake to communicate to and deposit with the Secretary-General of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization"):

(a) a list of non-governmental agencies which are authorized to act in their behalf in the administration of measures for safety of life at sea for circulation to the Contracting Governments for the information of their officers;

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[1] TIAS 5780, 6284; 16 UST 185; 18 UST 1289. [Footnote added by the Department of State.]

(b) the text of laws, decrees, orders and regulations which shall have been promulgated on the various matters within the scope of the present Convention;

(c) a sufficient number of specimens of their Certificates issued under the provisions of the present Convention for circulation to the Contracting Governments for the information of their officers.

ARTICLE IV

Cases of Force Majeure

(a) A ship, which is not subject to the provisions of the present Convention at the time of its departure on any voyage, shall not become subject to the provisions of the present Convention on account of any deviation from its intended voyage due to stress of weather or any other cause of *force majeure*.

(b) Persons who are on board a ship by reason of *force majeure* or in consequence of the obligation laid upon the master to carry shipwrecked or other persons shall not be taken into account for the purpose of ascertaining the application to a ship of any provisions of the present Convention.

ARTICLE V

Carriage of Persons in Emergency

(a) For the purpose of evacuating persons in order to avoid a threat to the security of their lives a Contracting Government may permit the carriage of a larger number of persons in its ships than is otherwise permissible under the present Convention.

(b) Such permission shall not deprive other Contracting Governments of any right of control under the present Convention over such ships which come within their ports.

(c) Notice of any such permission, together with a statement of the circumstances, shall be sent to the Secretary-General of the Organization by the Contracting Government granting such permission.

ARTICLE VI

Prior Treaties and Conventions

(a) As between the Contracting Governments, the present Convention replaces and abrogates the International Convention for the Safety of Life at Sea which was signed in London on 17 June 1960.

(b) All other treaties, conventions and arrangements relating to safety of life at sea, or matters appertaining thereto, at present in force between Governments parties to the present Convention shall continue to have full and complete effect during the terms thereof as regards:

(i) ships to which the present Convention does not apply;

(ii) ships to which the present Convention applies, in respect of matters for which it has not expressly provided.

(c) To the extent, however, that such treaties, conventions or arrangements conflict with the provisions of the present Convention, the provisions of the present Convention shall prevail.

(d) All matters which are not expressly provided for in the present Convention remain subject to the legislation of the Contracting Governments.

ARTICLE VII

Special Rules drawn up by Agreement

When in accordance with the present Convention special rules are drawn up by agreement between all or some of the Contracting Governments, such rules shall be communicated to the Secretary-General of the Organization for circulation to all Contracting Governments.

ARTICLE VIII

Amendments

(a) The present Convention may be amended by either of the procedures specified in the following paragraphs.

(b) Amendments after consideration within the Organization:

(i) Any amendment proposed by a Contracting Government shall be submitted to the Secretary-General of the Organization, who shall then circulate it to all Members of the Organization and all Contracting Governments at least six months prior to its consideration.

(ii) Any amendment proposed and circulated as above shall be referred to the Maritime Safety Committee of the Organization for consideration.

(iii) Contracting Governments of States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.

(iv) Amendments shall be adopted by a two-thirds majority of the Contracting Governments present and voting in the Maritime Safety Committee expanded as provided for in sub-paragraph (iii) of this paragraph (hereinafter referred to as "the expanded Maritime Safety Committee") on condition that at least one-third of the Contracting Governments shall be present at the time of voting.

(v) Amendments adopted in accordance with sub-paragraph (iv) of this paragraph shall be communicated by the Secretary-General of the Organization to all Contracting Governments for acceptance.

(vi) (1) An amendment to an Article of the Convention or to Chapter I of the Annex shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Contracting Governments.

(2) An amendment to the Annex other than Chapter I shall be deemed to have been accepted:

(aa) at the end of two years from the date on which it is communicated to Contracting Governments for acceptance; or

(bb) at the end of a different period, which shall not be less than one year, if so determined at the time of its adoption by a two-thirds majority of the Contracting Governments present and voting in the expanded Maritime Safety Committee.

However, if within the specified period either more than one-third of Contracting Governments, or Contracting Governments the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, notify the Secretary-General of the Organization that they object to the amendment, it shall be deemed not to have been accepted.

(vii) (1) An amendment to an Article of the Convention or to Chapter I of the Annex shall enter into force with respect to those Contracting Governments which have accepted it, six months after the date on which it is deemed to have been accepted, and with respect to each Contracting Government which accepts it after that date, six months after the date of that Contracting Government's acceptance.

(2) An amendment to the Annex other than Chapter I shall enter into force with respect to all Contracting Governments, except those which have objected to the amendment under sub-paragraph (vi)(2) of this paragraph and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force, any Contracting Government may give notice to the Secretary-General of the Organization that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by a two-thirds majority of the Contracting Governments present and voting in the expanded Maritime Safety Committee at the time of the adoption of the amendment.

(c) Amendment by a Conference:

(i) Upon the request of a Contracting Government concurred in by at least one-third of the Contracting Governments, the Organization shall convene a Conference of Contracting Governments to consider amendments to the present Convention.

(ii) Every amendment adopted by such a Conference by a two-thirds majority of the Contracting Governments present and voting shall

be communicated by the Secretary-General of the Organization to all Contracting Governments for acceptance.

(iii) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in sub-paragraphs (b)(vi) and (b)(vii) respectively of this Article, provided that references in these paragraphs to the expanded Maritime Safety Committee shall be taken to mean references to the Conference.

(d) (i) A Contracting Government which has accepted an amendment to the Annex which has entered into force shall not be obliged to extend the benefit of the present Convention in respect of the certificates issued to a ship entitled to fly the flag of a State the Government of which, pursuant to the provisions of sub-paragraph (b)(vi)(2) of this Article, has objected to the amendment and has not withdrawn such an objection, but only to the extent that such certificates relate to matters covered by the amendment in question.

(ii) A Contracting Government which has accepted an amendment to the Annex which has entered into force shall extend the benefit of the present Convention in respect of the certificates issued to a ship entitled to fly the flag of a State the Government of which, pursuant to the provisions of sub-paragraph (b)(vii)(2) of this Article, has notified the Secretary-General of the Organization that it exempts itself from giving effect to the amendment.

(e) Unless expressly provided otherwise, any amendment to the present Convention made under this Article, which relates to the structure of a ship, shall apply only to ships the keels of which are laid or which are at a similar stage of construction, on or after the date on which the amendment enters into force.

(f) Any declaration of acceptance of, or objection to, an amendment or any notice given under sub-paragraph (b)(vii)(2) of this Article shall be submitted in writing to the Secretary-General of the Organization, who shall inform all Contracting Governments of any such submission and the date of its receipt.

(g) The Secretary-General of the Organization shall inform all Contracting Governments of any amendments which enter into force under this Article, together with the date on which each such amendment enters into force.

ARTICLE IX

Signature, Ratification, Acceptance, Approval and Accession

(a) The present Convention shall remain open for signature at the Headquarters of the Organization from 1 November 1974 until 1 July 1975 and shall thereafter remain open for accession. States may become parties to the present Convention by:

(i) signature without reservation as to ratification, acceptance or approval; or

(ii) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(iii) accession.

(b) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

(c) The Secretary-General of the Organization shall inform the Governments of all States which have signed the present Convention or acceded to it of any signature or of the deposit of any instrument of ratification, acceptance, approval or accession and the date of its deposit.

ARTICLE X

Entry into Force

(a) The present Convention shall enter into force twelve months after the date on which not less than twenty-five States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with Article IX.

(b) Any instrument of ratification, acceptance, approval or accession deposited after the date on which the present Convention enters into force shall take effect three months after the date of deposit.

(c) After the date on which an amendment to the present Convention is deemed to have been accepted under Article VIII, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention as amended.

ARTICLE XI

Denunciation

(a) The present Convention may be denounced by any Contracting Government at any time after the expiry of five years from the date on which the Convention enters into force for that Government.

(b) Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General of the Organization who shall notify all the other Contracting Governments of any instrument of denunciation received and of the date of its receipt as well as the date on which such denunciation takes effect.

(c) A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General of the Organization.

ARTICLE XII

Deposit and Registration

(a) The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to the Governments of all States which have signed the present Convention or acceded to it.

(b) As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.[1]

ARTICLE XIII

Languages

The present Convention is established in a single copy in the Chinese, English, French, Russian and Spanish languages,[2] each text being equally authentic. Official translations in the Arabic, German and Italian languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed the present Convention.

DONE AT LONDON this first day of November one thousand nine hundred and seventy-four.

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[1] TS 993; 59 Stat. 1052.

[2] The convention is printed in the English language only.

[Footnotes added by the Department of State.]

Protocol to SOLAS 1974, February 17, 1978*

* 17 I.L.M. 579 (1978).

PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974*

INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

INTERNATIONAL CONFERENCE ON TANKER SAFETY AND POLLUTION PREVENTION, 1978

TSPP/CONF/10
16 February 1978
Original: ENGLISH

IMCO

PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

(Adopted by the Conference)

THE PARTIES TO THE PRESENT PROTOCOL,

BEING PARTIES to the International Convention for the Safety of Life at Sea, 1974, done at London on 1 November 1974,

RECOGNIZING the significant contribution which can be made by the above-mentioned Convention to the promotion of the safety of ships and property at sea and the lives of persons on board,

RECOGNIZING ALSO the need to improve further the safety of ships, particularly tankers,

CONSIDERING that this objective may best be achieved by the conclusion of a Protocol relating to the International Convention for the Safety of Life at Sea, 1974,

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*[Reproduced from I.M.C.O. Document TSPP/CONF/10 of February 16, 1978. The International Conference on Tanker Safety and Pollution Prevention, 1978, adopted the Convention on February 17, 1978. It will be opened for signature on June 1, 1978, and will remain open until March 1, 1979.

[The International Convention for the Safety of Life at Sea, 1974, done November 1, 1974, appears at 14 I.L.M. 959 (1975).

[A U.S. Supreme Court decision relating to tanker safety appears at I.L.M. page 726.]

HAVE AGREED as follows:

ARTICLE I

General Obligations

The Parties to the present Protocol undertake to give effect to the provisions of the present Protocol and the Annex hereto which shall constitute an integral part of the present Protocol. Every reference to the present Protocol constitutes at the same time a reference to the Annex hereto.

ARTICLE II

Application

1. The provisions of Articles II, III (other than paragraph (a), IV, VI(b), (c) and (d), VII and VIII of the International Convention for the Safety of Life at Sea, 1974 (hereinafter referred to as "the Convention") are incorporated in the present Protocol, provided that references in those Articles to the Convention and to Contracting Governments shall be taken to mean references to the present Protocol and to the Parties to the present Protocol, respectively.

2. Any ship to which the present Protocol applies shall comply with the provisions of the Convention, subject to the modifications and additions set out in the present Protocol.

3. With respect to the ships of non-parties to the Convention and the present Protocol, the Parties to the present Protocol shall apply the requirements of the Convention and the present Protocol as may be necessary to ensure that no more favourable treatment is given to such ships.

ARTICLE III

Communication of Information

The Parties to the present Protocol undertake to communicate to and deposit with the Secretary-General of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization"), a list of nominated surveyors or recognized organizations which are authorized to act on their behalf in the administration of measures for safety of life at sea for circulation to the Parties for information of their officers. The Administration shall therefore notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations.

ARTICLE IV

Signature, Ratification, Acceptance, Approval and Accession

1. The present Protocol shall be open for signature at the Headquarters of the Organization from 1 June 1978 to 1 March 1979 and shall thereafter remain open for accession. Subject to the provisions of paragraph 3 of this Article, States may become Parties to the present Protocol by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3. The present Protocol may be signed without reservation, ratified, accepted, approved or acceded to only by States which have signed without reservation, ratified, accepted, approved or acceded to the Convention.

ARTICLE V

Entry into Force

1. The present Protocol shall enter into force six months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become Parties to it in accordance with Article IV of the present Protocol, provided however that the present Protocol shall not enter into force before the Convention has entered into force.

2. Any instrument of ratification, acceptance, approval or accession deposited after the date on which the present Protocol enters into force shall take effect three months after the date of deposit.

3. After the date on which an amendment to the present Protocol is deemed to have been accepted under Article VIII of the Convention, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

ARTICLE VI

Denunciation

1. The present Protocol may be denounced by any Party at any time after the expiry of five years from the date on which the present Protocol enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General of the Organization.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General of the Organization.

4. A denunciation of the Convention by a Party shall be deemed to be a denunciation of the present Protocol by that Party.

ARTICLE VII

Depositary

1. The present Protocol shall be deposited with the Secretary-General of the Organization (hereinafter referred to as "the Depositary").

2. The Depositary shall:

(a) inform all States which have signed the present Protocol or acceded thereto of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of the present Protocol;

(iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which it was received and the date on which the denunciation takes effect;

(b) transmit certified true copies of the present Protocol to all States which signed the present Protocol or acceded thereto.

3. As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE VIII

Languages

The present Protocol is established in a single original in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German and Italian languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned being duly authorised by their respective Governments for that purpose have signed the present Protocol.

DONE AT LONDON this day of one thousand nine hundred and seventy-eight.

International Convention on Maritime Search and Rescue (with annex) 1979*

* Exec. Leg. Ser. J, 96th Cong., 2nd Sess. (1980).

The Parties to the Convention,

Noting the great importance attached in several conventions to the rendering of assistance to persons in distress at sea and to the establishment by every coastal State of adequate and effective arrangements for coast watching and for search and rescue services,

Having Considered Recommendation 40 adopted by the International Conference on Safety of Life at Sea, 1960, which recognizes the desirability of co-ordinating activities regarding safety on and over the sea among a number of inter-governmental organizations,

Desiring to develop and promote these activities by establishing an international maritime search and rescue plan responsible to the needs of maritime traffic for the rescue of persons in distress at sea.

Wishing to promote co-operation among search and rescue organizations around the world and among those participating in search and rescue operations at sea,

Have Agreed as follows:

ARTICLE I

GENERAL OBLIGATIONS UNDER THE CONVENTION

The Parties undertake to adopt all legislative or other appropriate measures necessary to give full effect to the Convention and its Annex, which is an integral part of the Convention. Unless expressly provided otherwise, a reference to the Convention constitutes at the same time a reference to its Annex.

ARTICLE II

OTHER TREATIES AND INTERPRETATION

(1) Nothing in the Convention shall prejudice the codification and development of the law of the sea by the United Nations Conferenee on the Law of the Sea convened pursuant to resolution 2750 (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

(2) No provision of the Convention shall be construed as prejudicing obligations or rights of vessels provided for in other international instruments.

ARTICLE III

AMENDMENTS

(1) The Convention may be amended by either of the procedures specified in paragraphs (2) and (3) hereinafter.

(2) Amendments after consideration within the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as the Organization):

(a) Any amendment proposed by a Party and transmitted to the Secretary-General of the Organization (hereinafter referred to as the Secetary-General), or any amendment deemed necessary by the Secretary-General as a result of an amendment to a corresponding provision of Annex 12 to the Convention on International Civil Aviation, shall be circulated to all Members of the Organization and all Parties at least six months prior to its consideration by the Maritime Safety Committee of the Organization.

(b) Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.

(c) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee on condition that at least one third of the Parties shall be present at the time of adoption of the amendment.

(d) Amendments adopted in accordance with sub-paragraph (c) shall be communicated by the Secretary-General to all Parties for acceptance.

(e) An amendment to an Article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the Annex shall be deemed to have been accepted on the date on which the Secretary-General has received an instrument of acceptance from two thirds of the Parties.

(f) An amendment to the Annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall be deemed to have been accepted at the end of one year from the date on which it is communicated to the Parties for acceptance. However, if within such period of one year more than one third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.

(g) An amendment to an Article or to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 of the Annex shall enter into force:

(i) with respect to those Parties which have accepted it, six months after the date on which it is deemed to have been accepted;

(ii) with respect to those Parties which accept it after the condition mentioned in sub-paragraph (e) has been met and before the amendment enters into force, on the date of entry into force of the amendment;

(iii) with respect to those Parties which accept it after the date on which the amendment enters into force, 30 days after the deposit of an instrument of acceptance.

(h) An amendment to the Annex other than to paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.10, 3.1.2 or 3.1.3 shall enter into force with respect to all Parties, except those which have objected to the amendment under sub-paragraph (f) and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force, any Party may give notice to the Secretary-General that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its

entry into force, or for such longer period as may be determined by a two-thirds majority of the Parties present and voting in the Maritime Safety Committee at the time of the adoption of the amendment.

(3) Amendment by a conference:

(a) Upon the request of a Party concurred in by at least one third of the Parties, the Organization shall convene a conference of Parties to consider amendments to the Convention. Proposed amendments shall be circulated by the Secretary-General to all Parties at least six months prior to their consideration by the conference.

(b) Amendments shall be adopted by such a conference by a two-thirds majority of the Parties present and voting, on condition that at least one third of the Parties shall be present at the time of adoption of the amendment. Amendments so adopted shall be communicated by the Secretary-General to all Parties for acceptance.

(c) Unless the conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in sub-paragraphs (2)(e), (2)(f), (2)(g) and (2)(h) respectively, provided that reference in sub-paragraph (2)(h) to the Maritime Safety Committee expanded in accordance with sub-paragraph (2)(b) shall be taken to mean reference to the conference.

(4) Any declaration of acceptance of, or objection to, an amendment or any notice given under sub-paragraph (2)(h) shall be submitted in writing to the Secretary-General who shall inform all Parties of any such submission and the date of its receipt.

(5) The Secretary-General shall inform States of any amendments which enter into force, together with the date on which each such amendment enters into force.

Article IV

Signature, ratification, acceptance, approval and accession

(1) The Convention shall remain open for signature at the Headquarters of the Organization from 1 November 1979 until 31 October 1980 and shall thereafter remain open for accession. States may become Parties to the Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

(3) The Secretary-General shall inform States of any signature or of the deposit of any instrument of ratification, acceptance, approval or accession and the date of its deposit.

Article V

ENTRY INTO FORCE

(1) The Convention shall enter into force 12 months after the date on which 15 States have become Parties to it in accordance with Article IV.

(2) Entry into force for States which ratify, accept, approve or accede to the Convention in accordance with Article IV after the condition prescribed in paragraph (1) has been met and before the Convention enters into force, shall be on the date of entry into force of the Convention.

(3) Entry into force for States which ratify, accept, approve or accede to the Convention after the date on which the Convention enters into force shall be 30 days after the date of deposit of an instrument in accordance with Article IV.

(4) Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to the Convention in accordance with Article III shall apply to the Convention as amended, and the Convention, as amended, shall enter into force for a State depositing such an instrument 30 days after the date of its deposit.

(5) The Secretary-General shall inform States of the date of entry into force of the Convention.

Article VI

DENUNCIATION

(1) The Convention may be denounced by any Party at any time after the expiry of five years from the date on which the Convention enters into force for that Party.

(2) Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General who shall notify States of any instrument of denunciation received and of the date of its receipt as well as the date on which such denunciation takes effect.

(3) A denunciation shall take one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General.

Article VII

DEPOSIT AND REGISTRATION

(1) The Convention shall be deposited with the Secretary-General who shall transmit certified true copies thereof to States.

(2) As soon as the Convention enters into force, the Secretary-General shall transmit the text thereof to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Article VIII

LANGUAGES

The Convention is established in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally

authentic. Official translations in the Arabic, German and Italian languages shall be prepared and deposited with the signed original.

Done at Hamburg this twenty-seventh day of April one thousand nine hundred and seventy-nine.

In witness whereof the undersigned, being duly authorized by their respective Governments for that purpose, have signed the Convention.

ANNEX

CHAPTER 1—TERMS AND DEFINITIONS

1.1 "Shall" is used in the Annex to indicate a provision, the uniform application of which by all Parties is required in the interest of safety of life at sea.

1.2 "Should" is used in the Annex to indicate a provision, the uniform application of which by all Parties is recommended in the interest of safety of life at sea.

1.3 The terms listed below are used in the Annex with the following meanings:

.1 "Search and rescue region". An area of defined dimensions within which search and rescue services are provided.

.2 "Rescue co-ordination centre". A unit responsible for promoting efficient organization of search and rescue services and for co-ordinating the conduct of search and rescue operations within a search and rescue region.

.3 "Rescue sub-centre". A unit subordinaate to a rescue co-ordination centre established to complement the latter within a specified area within a search and rescue region.

.4 "Coast watching unit". A land unit, stationary or mobile, designated to maintain a watch on the safety of vessels in coastal areas.

.5 "Rescue unit". A unit composed of trained presonnel and provided with equipment suitable for the expeditious conduct of search and rescue operations.

.6 "On-scene commander". The commander of a rescue unit designated to co-ordinate search and rescue operations within a specified search area.

.7 "Co-ordinator surface search". A vessel, other than a rescue unit, designated to co-ordinate surface search and rescue operations within a specified search area.

.8 "Emergency phase". A generic term meaning, as the case may be, uncertainty phase, alert phase or distress phase.

.9 "Uncertainty phase". A situation wherein uncertainty exists as to the safety of a vessel and the persons on board.

.10 "Alert phase". A situation wherein apprehension exists as to the safety of a vessel and of the persons on board.

.11 "Distress phase". A situation wherein there is a reasonable certainty that a vessel or a person is threatened by grave and imminent danger and requires immediate assistance.

.12 "To ditch". In the case of an aircraft, to make a forced landing on water.

CHAPTER 2—ORGANIZATION

2.1 Arrangements for provision and co-ordination of search and rescue services

2.1.1 Parties shall ensure that necessary arrangements are made for the provision of adequate search and rescue services for persons in distress at sea round their coasts.

2.1.2 Parties shall forward to the Secretary-General information on their search and rescue organization and later alterations of importance, including:

.1 national maritime search and rescue services;

.2 location of established rescue co-ordination centres, their telephone and telex numbers and areas of responsibility; and

.3 principal available rescue units at their disposal.

2.1.3 The Secretary-General shall in a suitable way transmit to all Parties the information referred to in paragraph 2.1.2.

2.1.4 Each search and rescue region shall be established by agreement among Parties concerned. The Secretary-General shall be notified of such agreement.

2.1.5 In case agreement on the exact dimensions of a search and rescue region is not reached by the Parties concerned, those Parties shall use their best endeavours to reach agreement upon appropriate arrangements under which the equivalent overall co-ordination of search and rescue services is provided in the area. The Secretary-General shall be notified of such arrangements.

2.1.6 The Secretary-General shall notify all Parties of the agreements or arrangements referred to in paragraphs 2.1.4 and 2.1.5.

2.1.7 The delimitation of search and rescue regions is not related to and shall not prejudice the delimitation of any boundary between States.

2.1.8 Parties should arrange that their search and rescue services are able to give prompt response to distress calls.

2.1.9 On receiving information that a person is in distress at sea in an area within which a Party provides for the overall co-ordination of search and rescue operations, the responsible authorities of that Party shall take urgent steps to provide the most appropriate assistance available.

2.1.10 Parties shall ensure that assistance be provided to any person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.

2.2 Co-ordination of search and rescue facilities

2.2.1 Parties shall make provision for the co-ordination of the facilities required to provide search and rescue services round their coasts.

2.2.2 Parties shall establish a national machinery for the overall co-ordination of search and rescue services.

2.3 Establishment of rescue co-ordination centres and rescue sub-centres

2.3.1 To meet the requirements of paragraphs 2.2.1 and 2.2.2 Parties shall establish rescue co-ordination centres for their search and rescue services and such rescue sub-centres as they consider appropriate.

2.3.2 The competent authorities of each Party shall determine the area for which a rescue sub-centre is responsible.

2.3.3 Each rescue co-ordination centre and rescue sub-centre established in accordance with paragraph 2.3.1 shall have adequate means for the receipt of distress communications via a coast radio station or otherwise. Every such centre and sub-centre shall also have adequate means for communication with its rescue units and with rescue co-ordination centres or rescue sub-centres, as appropriate, in adjacent areas.

2.4 Designation of rescue units

2.4.1 Parties shall designate either:

.1 as rescue units, State or other appropriate public or private services suitably located and equipped, or parts thereof; or

.2 as elements of the search and rescue organization, State or other appropriate public or private services or parts thereof, not suitable for designation as rescue units, but which are able to participate in search and rescue operations, and shall define the functions of those elements.

2.5 Facilities and equipment of rescue units

2.5.1 Each rescue unit shall be provided with facilities and equipment appropriate to its task.

2.5.2 Each rescue unit should have rapid and reliable means of communication with other units or elements engaged in the same operation.

2.5.3 Containers or packages containing survival equipment for dropping to survivors should have the general nature of their contents indicated by a colour code in accordance with paragraph 2.5.4 and by printed indication and self-explanatory symbols, to the extent that such symbols exist.

2.5.4 The colour identification of the contents of droppable containers and packages containing survival equipment should take the form of streamers coloured according to the following code:

.1 Red—medical supplies and first aid equipment;

.2 Blue—food and water;

.3 Yellow—blankets and protective clothing; and

.4 Black—miscellaneous equipment such as stoves, axes, compasses and cooking utensils.

2.5.5 Where supplies of a mixed nature are dropped in one container or package, the colour code should be used in combination.

2.5.6 Instructions on the use of the survival equipment should be enclosed in each of the droppable containers or packages. They should be printed in English and in at least two other languages.

CHAPTER 3—CO-OPERATION

3.1 Co-operation between States

3.1.1 Parties shall co-ordinate their search and rescue organizations and should, whenever necessary, co-ordinate search and rescue operations with those of neighbouring States.

3.1.2 Unless otherwise agree between the States concerned, a Party should authorize, subject to applicable national laws, rules and regulations, immediate entry into or over its territorial sea or territory of rescue units of other Parties solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties. In such cases, search and rescue operations shall, as far as prac-

ticable, be co-ordinated by the appropriate rescue co-ordination centre of the Party which has authorized entry, or such other authority as has been designated by that Party.

3.1.3 Unless otherwise agreed between the States concerned, the authorities of a Party which wishes its rescue units to enter into or over the territorial sea or territory of another Party solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties, shall transmit a request, giving full details of the projected mission and the need for it, to the rescue co-ordination centre of that other Party, or to such other authority as has been designated by that Party.

3.1.4 The competent authorities of Parties shall:

.1 immediately acknowledge the receipt of such a request; and

.2 as soon as possible indicate the conditions, if any, under which the projected mission may be undertaken.

3.1.5 Parties should enter into agreements with neighbouring States setting forth the conditions for entry of each other's rescue units into or over their respective territorial sea or territory. These agreements should also provide for expediting entry of such units with the least possible formalities.

3.1.6 Each Party should authorize its rescue co-ordination centres:

.1 to request from other rescue co-ordination centres such assistance, including vessels, aircraft, personnel or equipment, as may be needed;

.2 to grant any necessary permission for the entry of such vessels, aircraft, personnel or equipment into or over its territorial sea or territory; and

.3 to make the necessary arrangements with the appropriate customs, immigration or other authorities with a view to expediting such entry.

3.1.7 Each Party should authorize its rescue co-ordination centres to provide, when requested, assistance to other rescue co-ordination centers, including assistance in the form of vessels, aircraft, personnel or equipment.

3.1.8 Parties should enter into search and rescue agreements with neighboring States regarding the pooling of facilities, establishment of common procedures, conduct of joint training and exercises, regular checks of inter-State communication channels, liaison visits by rescue co-ordination centre personnel and the exchange of search and rescue information.

3.2 Co-ordination with aeronautical services

3.2.1 Parties shall ensure the closest practicable co-ordination between maritime and aeronautical services so as to provide for the most effective and efficient search and rescue services in and over their search and rescue regions.

3.2.2 Whenever practicable, each Party should establish joint rescue co-ordination centres and rescue sub-centres to serve both maritime and aeronautical purposes.

3.2.3 Whenever separate maritime and aeronautical rescue co-ordination centres or rescue sub-centres are established to serve the same area, the Party concerned shall ensure the closest practicable co-ordination between the centres or sub-centres.

3.2.4 Parties shall ensure as far as is possible the use of common procedures by rescue units established for maritime purposes and those established for aeronautical purposes.

CHAPTER 4—PREPARATORY MEASURES

4.1 Requirements for information

4.1.1 Each rescue co-ordination centre and rescue sub-centre shall have available up-to-date information relevant to search and rescue operations in its area including information regarding:

.1 rescue units and coast watching units;

.2 any other public and private resources, including transportation facilities and fuel supplies, that are likely to be useful in search and rescue operations;

.3 means of communication that may be used in search and rescue operations;

.4 names, cable and telex addresses, telephone and telex numbers of shipping agents, consular authorities, international organizations and other agencies who may be able to assist in obtaining vital information on vessels;

.5 the locations, call signs or maritime mobile service identities, hours of watch and frequencies of all radio stations likely to be employed in search and rescue operations;

.6 the locations, call signs or maritime mobile service identities, hours of watch and frequencies of all coast radio stations disseminating meteorological forecasts and warnings for the search and rescue region;

.7 the locations and hours of watch of services keeping radio watch and the frequencies guarded;

.8 objects likely to be mistaken for unlocated or unreported wreckage; and

.9 locations where supplies of droppable emergency survival equipment are stored.

4.1.2. Each rescue co-ordination centre and rescue sub-centre should have ready access to information regarding the position, course, speed and call sign or ship station identity of vessels within its area which may be able to provide assistance to vessels or persons in distress at sea. This information shall either be kept in the rescue co-ordination centre or be readily obtainable when necessary.

4.1.3 A large-scale map shall be provided at each rescue co-ordination centre and rescue sub-centre for the purpose of displaying and plotting information relevant to search and rescue operations in its area.

4.2 Operating plans or instructions

4.2.1 Each rescue co-ordination centre and rescue sub-centre shall prepare or have available detailed plans or instructions for the conduct of search and rescue operations in its area.

4.2.2 The plans or instructions shall specify arrangements for the servicing and refueling, to the extent possible, of vessels, aircraft and vehicles employed in search and rescue operations, including those made available by other States.

4.2.3 The plans or instructions should contain details regarding action to be taken by those engaged in search and rescue operations in the area, including:

.1 the manner in which search and rescue operations are to be conducted;

.2 the use of available communications systems and facilities;

.3 the action to be taken jointly with other rescue co-ordination centres or rescue sub-centres, as appropriate;

.4 the methods of alerting vessels at sea and en route aircraft;

.5 the duties and authority of personnel assigned to search and rescue operations;

.6 possible redeployment of equipment that may be necessitated by meteorological or other conditions;

.7 the methods of obtaining essential information relevant to search and rescue operations, such as appropriate notices to mariners and reports and forecasts of weather and sea surface conditions;

.8 the methods of obtaining from other rescue co-ordination centres or rescue sub-centres, as appropriate, such assistance as may be needed, including vessels, aircraft, personnel and equipment;

.9 the methods of assisting rescue vessels or other vessels to rendezvous with vessels in distress; and

.10 the methods of assisting distressed aircraft compelled to ditch to rendezvous with surface craft.

4.3 Preparedness of rescue units

4.3.1 Each designated rescue unit shall maintain a state of preparedness commensurate with its task and should keep the appropriate rescue co-ordination centre or rescue sub-centre informed of its state of preparedness.

CHAPTER 5—OPERATING PROCEDURES

5.1 Information concerning emergencies

5.1.1 Parties shall ensure that such continuous radio watches as are deemed practicable and necessary, are maintained on international distress frequencies. A coast radio station receiving any distress call or message shall:

.1 immediately inform the appropriate rescue co-ordination centre or rescue sub-centre;

.2 rebroadcast to the extent necessary to inform ships on one or more of the international distress frequencies or on any other appropriate frequency;

.3 precede such rebroadcasts with the appropriate automatic alarm signals unless this has already been done; and

.4 take such subsequent action as decided by the competent authority.

5.1.2 Any authority or element of the search and rescue organization having reason to believe that a vessel is in a state of emergency should give as soon as possible all available information to the rescue co-ordination centre or rescue sub-centre concerned.

5.1.3 Rescue co-ordination centres and rescue sub-centres shall, immediately upon receipt of information concerning a vessel in a state of emergency, evaluate such information and determine the phase of emergency in accordance with paragraph 5.2 and the extent of operation required.

5.2 Emergency phases

5.2.1 For operational purposes, the following emergency phases shall be distinguished:

.1 *Uncertainty phase:*

.1.1 when a vessel has been reported overdue at its destination; or

.1.2 when a vessel has failed to make an expected position or safety report.

.2 *Alert phase:*

.2.1 when, following the uncertainty phase, attempts to establish contact with the vessel have failed and inquiries addressed to other appropriate sources have been unsuccessful; or

.2.2 when information has been received indicating that the operating efficiency of a vessel is impaired but not to the extent that a distress situation is likely.

.3 *Distress phase:*

.3.1 when positive information is received that a vessel or a person is in grave and imminent danger and in need of immediate assistance; or

.3.2 when, following the alert phase, further unsuccessful attempts to establish contact with the vessel and more widespread unsuccessful inquiries point to the probability that the vessel is in distress; or

.3.3 when information is received which indicates that the operating efficiency of a vessel has been impaired to the extent that a distress situation is likely.

5.3 Procedures for rescue co-ordination centres and rescue sub-centres during emergency phases

5.3.1 Upon the declaration of the *uncertainty phase*, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall initiate inquiries in order to determine the safety of the vessel or shall declare the alert phase.

5.3.2 Upon the declaration of the *alert phase*, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall extend the inquiries for the missing vessel, alert appropriate search and rescue services and initiate such action, as described in paragraph 5.3.3, as is necessary in the light of the circumstances of the particular case.

5.3.3 Upon the declaration of the *distress phase*, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall:

.1 initiate action in accordance with the arrangements set out in paragraph 4.2;

.2 where appropriate, estimate the degree of uncertainty of the vessel's position and determine the extent of any area to be searched;

.3 notify the owner of the vessel or his agent if possible and keep him informed of developments;

.4 notify other rescue co-ordination centres or rescue sub-centres, the help of which seems likely to be required or which may be concerned in the operation;

.5 request at an early stage any help which might be available from aircraft, vessels or services not specifically included in the

search and rescue organization, considering that, in the majority of distress situations in ocean areas, other vessels in the vicinity are important elements for search and rescue operations;

.6 draw up a broad plan for the conduct of the operations from the information available and communicate such plan to the authorities designated in accordance with paragraphs 5.7 and 5.8 for their guidance;

.7 amend as necessary in the light of circumstances the guidance already given in paragraph 5.3.3.6;

.8 notify the consular or diplomatic authorities concerned or, if the incident involves a refugee or displaced person, the office of the competent international organization;

.9 notify accident investigation authorities as appropriate; and

.10 notify any aircraft, vessel or other services mentioned in paragraph 5.3.3.5 in consultation with the authorities designated in accordance with paragraphs 5.7 or 5.8, as appropriate, when their assistance is no longer required.

5.3.4 Initiation of search and rescue operations in respect of a vessel whose position is unknown

5.3.4.1 In the event of an emergency phase being declared in respect of a vessel whose position is unknown, the following shall apply:

.1 when a rescue co-ordination centre or rescue sub-centre is notified of the existence of an emergency phase and is unaware of other centres taking appropriate action, it shall assume responsibility for initiating suitable action and confer with neighboring centres with the objective of designating one centre to assume responsibility forthwith;

.2 unless otherwise decided by agreement between the centres concerned, the centre to be designated shall be the centre responsible for the area in which the vessel was according to its last reported position; and

.3 after the declaration of the distress phase, the centre co-ordinating the search and rescue operations shall, if necessary, inform other appropriate centres of all the circumstances of the state of emergency and of all subsequent developments.

5.3.5 Passing information to vessels in respect of which an emergency phase has been declared

5.3.5.1 Whenever applicable, the rescue co-ordination centre or rescue sub-centre responsible for search and rescue operations shall be responsible for passing to the vessel for which an emergency phase has been declared, information on the search and rescue operation it has initiated.

5.4 Co-ordination when two or more parties are involved

5.4.1 Where the conduct of operations over the entire search and rescue region is the responsibility of more than one Party, each Party shall take appropriate action in accordance with the operating plans or instructions referred to in paragraph 4.2 when so requested by the rescue co-ordination centre of the region.

5.5 Termination and suspension of search and rescue operations

5.5.1 *Uncertainty phase and alert phase.*

5.5.1.1 When during an uncertainty phase or an alert phase a rescue co-ordination centre or rescue sub-centre, as appropriate, is informed

that the emergency no longer exists, it shall so inform any authority, unit or service which has been activated or notified.

5.5.2 *Distress phase.*

5.5.2.1 When during a distress phase a rescue co-ordination centre or rescue sub-centre, as appropriate, is informed by the vessel in distress or other appropriate sources that the emergency no longer exists, it shall take the necessary action to terminate the search and rescue operations and to inform any authority, unit or service which has been activated or notified.

5.5.2.2 If during a distress phase it has been determined that the search should be discontinued the rescue co-ordination centre or rescue sub-centre, as appropriate, shall suspend the search and rescue operations and so inform any authority, unit or service which has been activated or notified. Information subsequently received shall be evaluated and search and rescue operations resumed when justified on the basis of such information.

5.5.2.3 If during a distress phase it has been determined that further search would be of no avail, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall terminate the search and rescue operations and so inform any authority, unit or service which has been activated or notified.

5.6 On-scene co-ordination of search and rescue activities

5.6.1 The activities of units engaged in search and rescue operations, whether they be rescue units or other assisting units, shall be co-ordinated to ensure the most effective results.

5.7 Designation of on-scene commander and his responsibilities

5.7.1 When rescue units are about to engage in search and rescue operations, one of them should be designated on-scene commander as early as practicable and preferably before arrival within the specified search area.

5.7.2 The appropriate rescue co-ordination centre or rescue sub-centre should designate an on-scene commander. If this is not practicable, the units involved should designate by mutual agreement an on-scene commander.

5.7.3 Until such time as an on-scene commander has been designated, the first rescue unit arriving at the scene of action should automatically assume the duties and responsibilities of an on-scene commander.

5.7.4 An on-scene commander shall be responsible for the following tasks when these have not been performed by the responsible rescue co-ordination centre or rescue sub-centre, as appropriate:

.1 determining the probable position of the object of the search, the probable margin of error in this position, and the search area;

.2 making arrangements for the separation for safety purposes of units engaged in the search;

.3 designating appropriate search patterns for the units participating in the search and assigning search areas to units or groups of units;

.4 designating appropriate units to effect rescue when the object of the search is located; and

.5 co-ordinating on-scene search and rescue communications.

5.7.5 An on-scene commander shall also be responsible for the following:

.1 making periodic reports to the rescue co-ordination centre or rescue sub-centre which is co-ordinating the search and rescue operations; and

.2 reporting the number and the names of survivors to the rescue co-ordination centre or rescue sub-centre which is co-ordinating the search and rescue operations, providing the centre with the names and destinations of units with survivors aboard, reporting which survivors are in each unit and requesting additional assistance from the centre when necessary, for example, medical evacuation of seriously injured survivors.

5.8 Designation of co-ordinator surface search and his responsibilities

5.8.1 If rescue units (including warships) are not available to assume the duties of an on-scene commander but a number of merchant vessels or other vessels are participating in the search and rescue operations, one of them should be designated by mutual agreement as co-ordinator surface search.

5.8.2 The co-ordinator surface search should be designated as early as practicable and preferably before arrival within the specified search area.

5.8.3 The co-ordinator surface search should be responsible for as many of the tasks listed in paragraphs 5.7.4 and 5.7.5 as the vessel is capable of performing.

5.9 Initial action

5.9.1 Any unit receiving information of a distress incident shall take whatever immediate action to assist as is within its capability or shall alert other units which might be able to assist and shall notify the rescue co-ordination centre or rescue sub-centre in whose area the incident has occurred.

5.10 Search areas

5.10.1 Search areas determined in accordance with paragraph 5.3.3.2, 5.7.4.1 or 5.8.3 may be altered as appropriate by the on-scene commander or the co-ordinator surface search, who should notify the rescue co-ordination centre or rescue sub-centre of his action and his reasons for doing so.

5.11 Search patterns

5.11.1 Search patterns designated in accordance with paragraph 5.3.3.6, 5.7.4.3 or 5.8.3 may be changed to other patterns if considered necessary by the on-scene commander or the co-ordinator surface search, who should notify the rescue co-ordination centre or rescue sub-centre of his action and his reasons for doing so.

5.12 Search successful

5.12.1 When the search has been successful the on-scene commander or the co-ordinator surface search should direct the most suitably equipped units to conduct the rescue or to provide other necessary assistance.

5.12.2 Where appropriate the units conducting the rescue should notify the on-scene commander or the co-ordinator surface search of the number and names of survivors aboard, whether all personnel have been accounted for and whether additional assistance is required, for example, medical evacuations, and the destination of the units.

5.12.3 The on-scene commander or the co-ordinator surface search should immediately notify the rescue co-ordination centre or rescue sub-centre when the search has been successful.

5.13 Search unsuccessful

5.13.1 The search should only be terminated when there is no longer any reasonable hope of rescuing survivors.

5.13.2 The rescue co-ordination centre or rescue sub-centre co-ordinating the search and rescue operations should normally be responsible for terminating the search.

5.13.3 In remote ocean areas not under the responsibility of a rescue co-ordination centre or where the responsible centre is not in a position to co-ordinate the search and rescue operations, the on-scene commander or the co-ordinator surface search may take responsibility for terminating the search.

CHAPTER 6—SHIP REPORTING SYSTEMS

6.1 General

6.1.1 Parties should establish a ship reporting system for application within any search and rescue region for which they are responsible, where this is considered necessary to facilitate search and rescue operations and is deemed practicable.

6.1.2 Parties contemplating the institution of a ship reporting system should take account of the relevant recommendations of the Organization.

6.1.3 The ship reporting system should provide up-to-date information on the movements of vessels in order, in the event of a distress incident:

.1 to reduce the interval between the loss of contact with a vessel and the initiation of search and rescue operations in cases where no distress signal has been received;

.2 to permit rapid determination of vessels which may be called upon to provide assistance;

.3 to permit delineation of a search area of limited size in case the position of a vessel in distress is unknown or uncertain; and

.4 to facilitate the provision of urgent medical assistance or advice to vessels not carrying a doctor.

6.2 Operational requirements

6.2.1 To achieve the objectives set out in paragraph 6.1.3, the ship reporting system should satisfy the following operational requirements:

.1 provision of information, including sailing plans and position reports, which would make it possible to predict the future positions of participating vessels;

.2 maintenance of a shipping plot;

.3 receipt of reports at appropriate intervals from participating vessels;

.4 simplicity in system design and operation; and

.5 use of an internationally agreed standard ship reporting format and internationally agreed standard procedures.

6.3 Types of reports

6.3.1 A ship reporting system should incorporate the following reports:

.1 *Sailing plan*—giving name, call sign or ship station identity, date and time (in GMT) of departure, details of the vessel's point of departure, next port of call, intended route, speed and expected date and time (in GMT) of arrival. Significant changes should be reported as soon as possible.

.2 *Position report*—giving name, call sign or ship station identity, date and time (in GMT), position, course, and speed.

.3 *Final report*—giving name, call sign or ship station identity, date and time (in GMT) of arrival at destination or of leaving the area covered by the system.

6.4 Use of systems

6.4.1 Parties should encourage all vessels to report their positions when travelling in areas where arrangements have been made to collect information on positions for search and rescue purposes.

6.4.2 Parties recording information on the position of vessels should disseminate, so far as practicable, such information to other States when so requested for search and rescue purposes.

Certified true copy of the English text of the International Convention on Maritime Search and Rescue, 1979, done at Hamburg on 27 April 1979, the original of which is deposited with the Secretary-General of the Inter-Governmental Maritime Consultative Organization.

For the Secretary-General of the Inter-Governmental Maritime Consultative Organization:

London,

2. Slave Trade

Suppression of White Slave Traffic (Arts. 2 and 4), May 18, 1904*

* 35 Stat. 1979; T.S. 496.

Agreement between the United States and other Powers for the repression of the trade in white women. Signed at Paris, May 18, 1904; ratification advised by the Senate, March 1, 1905; adhered to by the President, June 6, 1908; proclaimed, June 15, 1908.

May 18, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Repression of trade in white women. Preamble.

Whereas a project of arrangement for the suppression of the white slave traffic was, on July 25, 1902, adopted for submission to their respective Governments by the delegates of various Powers represented at the Paris Conference for the repression of the trade in white women;

And whereas, in pursuance of Article VII of the said project of arrangement, the Government of the United States was, on August 18, 1902, invited by the Government of the French Republic to adhere thereto;

And whereas the Senate of the United States, by its Resolution of March 1, 1905 (two-thirds of the Senators present concurring therein), did advise and consent to the adhesion by the United States to the said project of arrangement;

And whereas the stipulations of the said project of arrangement were, word for word, and without change, confirmed by a formal agreement, signed at Paris on May 18, 1904, by the Governments of Germany, Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Portugal, Russia, Sweden, Norway, and the Swiss Federal Council, a true copy of which agreement, in the French language, is hereto attached;

And whereas the ratifications by the said Governments of the said agreement have been duly deposited with the Government of the French Republic; and the said agreement has been adhered to by the Governments of Austria-Hungary and Brazil;

Adherence.

And whereas the President of the United States of America, in pursuance of the aforesaid advice and consent of the Senate, did, on the 6th day of June, 1908, declare that the United States adheres to the said agreement in confirmation of the said project of arrangement:

Proclamation.

Now, therefore, be it known, That I, Theodore Roosevelt, President of the United States of America, have caused the said agreement to be made public, to the end that the same, and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this 15th day of June, in the year of our Lord one thousand nine hundred and eight, and of the Independence of the United States of America the one hundred and thirty-second.

[SEAL.]

THEODORE ROOSEVELT.

By the President:
ROBERT BACON
Acting Secretary of State.

ART. 2.

Supervision at harbors of embarkation, etc.

Each of the Governments agree to exercise a supervision for the purpose to find out, particularly in the stations, harbours of embarkation and on the journey, the conductors of women or girls intended for debauchery. Instructions shall be sent for that purpose to the officials or to any other qualified persons, in order to procure, within the limits of the laws, all information of a nature to discover a criminal traffic.

Notice of arrival of persons engaged in criminal traffic.

The arrival of persons appearing evidently to be the authors, the accomplices or the victims of such a traffic will be notified, in each case, either to the authorities of the place of destination or to the interested diplomatic or consular agents, or to any other competent authorities.

ART. 4.

Expenses of return transportation.

In case the woman or girl to be sent back can not pay herself the expenses of her transportation and she has neither husband, nor relations, nor guardian to pay for her the expenses occasioned by her return, they shall be borne by the country on the territory of which she resides as far as the nearest frontier or port of embarkation in the direction of the country of origin, and by the country of origin for the remainder.

Slavery Convention (Art. 3),
September 25, 1926*

* 46 Stat. 2183; T.S. 778; 60 L.N.T.S. 255.

Considering, moreover, that it is necessary to prevent forced labour from developing into conditions analogous to slavery,

Article 3.

The High Contracting Parties undertake to adopt all appropriate measures with a view to preventing and suppressing the embarkation, disembarkation and transport of slaves in their territorial waters and upon all vessels flying their respective flags.

The High Contracting Parties undertake to negotiate as soon as possible a general Convention with regard to the slave trade which will give them rights and impose upon them duties of the same nature as those provided for in the Convention of June 17th, 1925, relative to the International Trade in Arms (Articles 12, 20, 21, 22, 23, 24, and paragraphs 3, 4 and 5 of Section II of Annex II), with the necessary adaptations, it being understood that this general Convention will not place the ships (even of small tonnage) of any High Contracting Parties in a position different from that of the other High Contracting Parties.

It is also understood that, before or after the coming into force of this general Convention, the High Contracting Parties are entirely free to conclude between themselves, without, however, derogating from the principles laid down in the preceding paragraph, such special agreements as, by reason of their peculiar situation, might appear to be suitable in order to bring about as soon as possible the complete disappearance of the slave trade.

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Section II, Art.3.2), September 7, 1956*

* 18 U.S.T. 3204; T.I.A.S. 6418; 266 U.N.T.S. 3.

SUPPLEMENTARY CONVENTION ON THE ABOLITION OF SLAVERY, THE SLAVE TRADE, AND INSTITUTIONS AND PRACTICES SIMILAR TO SLAVERY

PREAMBLE

The States Parties to the present Convention

Considering that freedom is the birthright of every human being;

Mindful that the peoples of the United Nations reaffirmed in the Charter[1] their faith in the dignity and worth of the human person;

Considering that the Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations as a common standard of achievement for all peoples and all nations, states that no one shall be held in slavery or servitude and that slavery and the slave trade shall be prohibited in all their forms;

Recognizing that, since the conclusion of the Slavery Convention signed at Geneva on 25 September 1926,[2] which was designed to secure the abolition of slavery and of the slave trade, further progress has been made towards this end;

Having regard to the Forced Labour Convention of 1930[3] and to subsequent action by the International Labour Organisation in regard to forced or compulsory labour;

Being aware, however, that slavery, the slave trade and institutions and practices similar to slavery have not yet been eliminated in all parts of the world;

Having decided, therefore, that the Convention of 1926, which remains operative, should now be augmented by the conclusion of a supplementary convention designed to intensify national as well as international efforts towards the abolition of slavery, the slave trade and institutions and practices similar to slavery;

Have agreed as follows:

SECTION II

THE SLAVE TRADE

Article 3

1. The act of conveying or attempting to convey slaves from one country to another by whatever means of transport, or of being accessory thereto, shall be a criminal offence under the laws of the States Parties to this Convention and persons convicted thereof shall be liable to very severe penalties.

2. (*a*) The States Parties shall take all effective measures to prevent ships and aircraft authorized to fly their flags from conveying slaves and to punish persons guilty of such acts or of using national flags for that purpose.

(*b*) The States Parties shall take all effective measures to ensure that their ports, airfields and coasts are not used for the conveyance of slaves.

[1] TS 993; 59 Stat. 1031.
[2] TS 778; 46 Stat. 2183.
[3] Convention no. 29, adopted at Geneva June 28, 1930 (39 UNTS 55), as modified by the Final Articles Revision Convention, adopted at Montreal Oct. 9, 1946 (38 UNTS 3).

F. COOPERATIVE ARRANGEMENTS FOR PORT REGULATION AND DEVELOPMENT

Convention on the International Regime of Maritime Ports, December 9, 1923*

* 58 L.N.T.S. 287.

No. 1379. — CONVENTION [1] ON THE INTERNATIONAL RÉGIME OF MARITIME PORTS. SIGNED AT GENEVA, DECEMBER 9, 1923.

French and English official texts. The Convention and the Protocol relating thereto were registered with the Secretariat, December 2, 1926, following their coming into force.

GERMANY, BELGIUM, BRAZIL, THE BRITISH EMPIRE (with NEW ZEALAND AND INDIA), BULGARIA, CHILE, DENMARK, SPAIN, ESTONIA, GREECE, HUNGARY, ITALY, JAPAN, LITHUANIA, NORWAY, THE NETHERLANDS, SALVADOR, KINGDOM OF THE SERBS, CROATS AND SLOVENES, SIAM, SWEDEN, SWITZERLAND, CZECHOSLOVAKIA AND URUGUAY,

Desirous of ensuring in the fullest measure possible the freedom of communications mentioned in Article 23*(e)* of the Covenant by guaranteeing in the maritime ports situated under their sovereignty or authority and for purposes of international trade equality of treatment between the ships of all the Contracting States, their cargoes and passengers ;

Considering that the best method of achieving their present purpose is by means of a general convention to which the greatest possible number of States can later accede ;

And whereas the Conference which met at Genoa on April 10th, 1922, requested, in a resolution which was transmitted to the competent organisations of the League of Nations with the approval of the Council and the Assembly of the League, that the International Conventions relating to the Régime of Communications provided for in the Treaties of Peace should be concluded and put into operation as soon as possible, and whereas, Article 379 of the Treaty of Versailles and the corresponding articles of the other Treaties provide for the preparation of a General Convention on the International Régime of Ports ;

Having accepted the invitation of the League of Nations to take part in a Conference which met at Geneva on November 15th, 1923 ;

Desirous of bringing into force the provisions of the Statute relating to the International Régime of Ports adopted thereat, and of concluding a General Convention for this purpose, the High Contracting Parties have appointed as their plenipotentiaries :

Who, after communicating their full powers, found in good and due form, have agreed as follows :

Article 1.

The Contracting States declare that they accept the Statute on the International Régime of Maritime Ports, annexed hereto, adopted by the Second General Conference on Communications and Transit which met at Geneva on November 15, 1923.

This Statute shall be deemed to constitute an integral part of the present Convention.

Consequently, they hereby declare that they accept the obligations and undertakings of the said Statute in conformity with the terms and in accordance with the conditions set out therein.

Article 2.

The present Convention does not in any way affect the rights and obligations arising out of the provisions of the Treaty of Peace signed at Versailles on June 28, 1919, or out of the provisions of the other corresponding Treaties, in so far as they concern the Powers which have signed, or which benefit by, such Treaties.

Article 3.

The present Convention of which the French and English texts are both authentic, shall bear this day's date, and shall be open for signature until October 31, 1924, by any State represented at the Conference of Geneva, by any Member of the League of Nations and by any States to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Article 4.

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify their receipt to every State signatory of or acceding to the Convention.

Article 5.

On and after November 1st, 1924, the present Convention may be acceded to by any State represented at the Conference referred to in Article 1, by any Member of the League of Nations, or by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Accession shall be effected by an instrument communicated to the Secretary-General of the League of Nations to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to every State signatory of or acceding to the Convention.

Article 6.

The present Convention will not come into force until it has been ratified in the name of five States. The date of its coming into force shall be the ninetieth day after the receipt by the Secretary-General of the League of Nations of the fifth ratification. Thereafter, the present Convention will take effect in the case of each Party ninety days after the receipt of its ratification or of the notification of its accession.

In compliance with the provisions of Article 18 of the Covenant of the League of Nations, the Secretary-General will register the present Convention upon the day of its coming into force.

Article 7.

A special record shall be kept by the Secretary-General of the League of Nations showing, with due regard to the provisions of Article 9, which of the Parties have signed, ratified, acceded to or denounced the present Convention. This record shall be open to the Members of the League at all times ; it shall be published as often as possible, in accordance with the directions of the Council.

Article 8.

Subject to the provisions of Article 2 above, the present Convention may be denounced by any Party thereto after the expiration of five years from the date when it came into force in respect of that Party. Denunciation shall be effected by notification in writing addressed to the Secretary-General of the League of Nations. Copies of such notification shall be transmitted forthwith by him to all the other Parties, informing them of the date on which it was received.

A denunciation shall take effect one year after the date on which the notification thereof was received by the Secretary-General, and shall operate only in respect of the notifying State.

Article 9.

Any State signing or acceding to the present Convention may declare at the moment either of its signature, ratification or accession, that its acceptance of the present Convention does not include any or all of its colonies, overseas possessions, protectorates, or overseas territories, under its sovereignty or authority, and may subsequently accede, in conformity with the provisions of Article 5, on behalf of any such colony, overseas possession, protectorate or territory excluded by such declaration.

Denunciation may also be made separately in respect of any such colony, overseas possession, protectorate or territory, and the provisions of Article 8 shall apply to any such denunciation.

Article 10.

The revision of the present Convention may be demanded at any time by one-third of the Contracting States.

STATUTE.

Article 1.

All ports which are normally frequented by sea-going vessels and used for foreign trade shall be deemed to be maritime ports within the meaning of the present Statute.

Article 2.

Subject to the principle of reciprocity and to the reservation set out in the first paragraph of Article 8, every Contracting State undertakes to grant the vessels of every other Contracting State equality of treatment with its own vessels, or those of any other State whatsoever, in the maritime ports situated under its sovereignty or authority, as regards freedom of access to the port, the use of the port, and the full enjoyment of the benefits as regards navigation and commercial operations which it affords to vessels, their cargoes and passengers.

The equality of treatment thus established shall cover facilities of all kinds, such as allocation of berths, loading and unloading facilities, as well as dues and charges of all kinds levied in the name or for the account of the Government, public authorities, concessionaries or undertakings of any kind.

Article 3.

The provisions of the preceding article in no way restrict the liberty of the competent Port Authorities to take such measures as they may deem expedient for the proper conduct of the business of the port provided that these measures comply with the principle of equality of treatment as defined in the said article.

Article 4.

All dues and charges levied for the use of maritime ports shall be duly published before coming into force.

The same shall apply to the by-laws and regulations of the port.

In each maritime port, the Port Authority shall keep open for inspection by all persons concerned a table of the dues and charges in force, as well as a copy of the by-laws and regulations.

Article 5.

In assessing and applying Customs and other analogous duties, local octroi or consumption duties, or incidental charges, levied on the importation or exportation of goods through the maritime ports situated under the sovereignty or authority of the Contracting States, the flag of the vessel must not be taken into account, and accordingly no distinction may be made to the detriment of the flag of any Contracting State whatsoever as between that flag and the flag of the State under whose sovereignty or authority the port is situated, or the flag of any other State whatsoever.

Article 6.

In order that the principle of equal treatment in maritime ports laid down in Article 2 may not be rendered ineffective in practice by the adoption of other methods of discrimination against

the vessels of a Contracting State using such ports, each Contracting State undertakes to apply the provisions of Articles 4, 20, 21 and 22 of the Statute annexed to the Convention on the international Régime of Railways, signed at Geneva on December 9, 1923, so far as they are applicable to traffic to or from a maritime port, whether or not such Contracting State is a party to the said Convention on the International Régime of Railways. The aforesaid Articles are to be interpreted in conformity with the provisions of the protocol of Signature of the said Convention. (See Annex.)

Article 7.

Unless there are special reasons justifying an exception, such as those based upon special geographical, economic, or technical conditions, the Customs duties levied in any maritime port situated under the sovereignty or authority of a Contracting State may not exceed the duties levied on the other Customs frontiers of the said State on goods of the same kind, source or destination.

If, for special reasons as set out above, a Contracting State grants special Customs facilities on other routes for the importation or exportation of goods, it shall not use these facilities as a means of discriminating unfairly against importation or exportation through the maritime ports situated under its sovereignty or authority.

Article 8.

Each of the Contracting States reserves the power, after giving notice through diplomatic channels, of suspending the benefit of equality of treatment from any vessel of a State which does not effectively apply, in any maritime port situated under its sovereignty or authority, the provisions of this Statute to the vessels of the said Contracting State, their cargoes and passengers.

In the event of action being taken as provided in the preceding paragraph, the State which has taken action and the State against which action is taken, shall both alike have the right of applying to the Permanent Court of International Justice[1] by an application addressed to the Registrar ; and the Court shall settle the matter in accordance with the rules of summary procedure.

Every Contracting State shall, however, have the right at the time of signing or ratifying this Convention, of declaring that it renounces the right of taking action as provided in the first paragraph of this article against any other State which may make a similar declaration.

Article 9.

This Statute does not in any way apply to the maritime coasting trade.

Article 10.

Each Contracting State reserves the right to make such arrangements for towage in its maritime ports as it thinks fit, provided that the provisions of Articles 2 and 4 are not thereby infringed.

Article 11.

Each Contracting State reserves the right to organise and administer pilotage services as it thinks fit. Where pilotage is compulsory, the dues and facilities offered shall be subject to the provisions of Articles 2 and 4, but each Contracting State may exempt from the obligation of compulsory pilotage such of its nationals as possess the necessary technical qualifications.

[1] Vol. VI, page 379 ; Vol. XI, page 404 ; Vol. XV, page 304 ; Vol. XXIV, page 152 ; Vol. XXVII, page 416 · Vol. XXXIX, page 165 ; Vol. XLV, page 96 ; Vol. L, page 159 ; and Vol. LIV, page 387, of this Series.

Article 12.

Each Contracting State shall have the power, at the time of signing or ratifying this Convention, of declaring that it reserves the right of limiting the transport of emigrants, in accordance with the provisions of its own legislation to vessels which have been granted special authorisation as fulfilling the requirements of the said legislation. In exercising this right, however, the Contracting State shall be guided, as far as possible, by the principles of this Statute.

The vessels so authorised to transport emigrants shall enjoy all the benefits of this Statute in all maritime ports.

Article 13.

This Statute applies to all vessels, whether publicly or privately owned or controlled.

It does not, however, apply in any way to warships or vessels performing police or administrative functions, or, in general, exercising any kind of public authority, or any other vessels which for the time being are exclusively employed for the purposes of the Naval, Military or Air Forces of a State.

Article 14.

This Statute does not in any way apply to fishing vessels or to their catches.

Article 15.

Where in virtue of a treaty, convention or agreement, a Contracting State has granted special rights to another State within a defined area in any of its maritime ports for the purpose of facilitating the transit of goods or passengers to or from the territory of the said State, no other Contracting State can invoke the stipulations of this Statute in support of any claim for similar special rights.

Every Contracting State which enjoys the aforesaid special rights in a maritime port of another State, whether Contracting or not, shall conform to the provisions of this Statute in its treatment of the vessels trading with it, and their cargoes and passengers.

Every Contracting State which grants the aforesaid special rights to a non-Contracting State is bound to impose, as one of the conditions of the grant, an obligation on the State which is to enjoy the aforesaid rights to conform to the provisions of this Statute in its treatment of the vessels trading with it, and their cargoes and passengers.

Article 16.

Measures of a general or particular character which a Contracting State is obliged to take in case of an emergency affecting the safety of the State or the vital interests of the country may, in exceptional cases, and for as short a period as possible, involve a deviation from the provisions of Articles 2 to 7 inclusive ; it being understood that the principles of the present Statute must be observed to the utmost possible extent.

Article 17.

No Contracting State shall be bound by this Statute to permit the transit of passengers whose admission to its territories is forbidden, or of goods of a kind of which the importation is prohi-

bited, either on grounds of public health or security, or as a precaution against diseases of animals or plants. As regards traffic other than traffic in transit, no Contracting State shall be bound by this Statute to permit the transport of passengers whose admission to its territories is forbidden, or of goods of which the import or export is prohibited, by its national laws.

Each Contracting State shall be entitled to take the necessary precautionary measures in respect of the transport of dangerous goods or goods of a similar character, as well as general police measures, including the control of emigrants entering or leaving its territory, it being understood that such measures must not result in any discrimination contrary to the principles of the present Statute.

Nothing in this Statute shall affect the measures which one of the Contracting States is or may feel called upon to take in pursuance of general international conventions to which it is a party, or which may be concluded hereafter, particularly conventions concluded under the auspices of the League of Nations, relating to the traffic in women and children, the transit, export or import of particular kinds of articles such as opium or other dangerous drugs, arms, or the produce of fisheries, or in pursuance of general conventions intended to prevent any infringement of industrial, literary or artistic property, or relating to false marks, false indications of origin or other methods of unfair competition.

Article 18.

This Statute does not prescribe the rights and duties of belligerents and neutrals in time of war. The Statute shall, however, continue in force in time of war so far as such rights and duties permit.

Article 19.

The Contracting States undertake to introduce into those Conventions in force on December 9, 1923, which contravene the provisions of this Statute, so soon as circumstances permit and in any case on the expiry of such conventions, the modifications required to bring them into harmony with such provisions, so far as the geographical, economic or technical circumstance of the countries or areas concerned allow.

The same shall apply to concessions granted before December 9, 1923, for the total or partial exploitation of maritime ports.

Article 20.

This Statute does not entail in any way the withdrawal of facilities which are greater than those provided for in the Statute and which have been granted in respect of the use of maritime ports under conditions consistent with its principles. This Statute also entails no prohibition of such grant of greater facilities in the future.

Article 21.

Without prejudice to the provisions of the second paragraph of Article 8, disputes which may arise between Contracting States as to the interpretation or the application of the present Statute shall be settled in the following manner :

Should it prove impossible to settle such dispute either directly between the Parties or by any other method of amicable settlement, the Parties to the dispute may, before resorting to any procedure of arbitration or to a judicial settlement, submit the dispute for an advisory opinion to the body established by the League of Nations as the advisory and technical organisation of

Members of the League for matters of communications and transit. In urgent cases a preliminary opinion may be given recommending temporary measures, including measures to restore the facilities for international traffic which existed before the act or occurence which gave rise to the dispute.

Should it prove impossible to settle the dispute by any of the methods of procedure enumerated in the preceding paragraph, the Contracting States shall submit their dispute to arbitration, unless they have decided or shall decide, under an agreement between them, to bring it before the Permanent Court of International Justice.

Article 22.

If the case is submitted to the Permanent Court of International Justice, it shall be heard and determined under the conditions laid down in Article 27 of the Statute of the Court.

If arbitration is resorted to, and unless the Parties decide otherwise, each Party shall appoint an arbitrator, and a third member of the arbitral tribunal shall be elected by the arbitrators, or, in case the latter are unable to agree, shall be selected by the Council of the League of Nations from the list of assessors for Communications and Transit cases mentioned in Article 27 of the Statute of the Permanent Court of International Justice ; in such latter case, the third arbitrator shall be selected in accordance with the provisions of the penultimate paragraph of Article 4 and the first paragraph of Article 5 of the Covenant of the League.

The arbitral tribunal shall judge the case on the basis of the terms of reference mutually agreed upon between the Parties. If the Parties have failed to reach an agreement, the arbitral tribunal, acting unanimously, shall itself draw up terms of reference after considering the claims formulated by the Parties ; if unanimity cannot be obtained, the Council of the League of Nations shall decide the terms of reference under the conditions laid down in the preceding paragraph. If the procedure is not determined by the terms of reference, it shall be settled by the arbitral tribunal.

During the course of the arbitration the Parties, in the absence of any contrary provision in the terms of reference, are bound to submit to the Permanent Court of International Justice any question of international law or question as to the legal meaning of this Statute the solution of which the arbitral tribunal, at the request of one of the Parties, pronounces to be a necessary preliminary to the settlement of the dispute.

Article 23.

It is understood that this Statute must not be interpreted as regulating in any way rights and obligations *inter se* of territories forming part of or placed under the protection of the same sovereign State, whether or not these territories are individually Contracting States.

Article 24.

Nothing in the preceding Articles is to be construed as affecting in any way the rights or duties of a Contracting State as Member of the League of Nations.

20) AGREEMENTS [3] BETWEEN CHILE, ECUADOR AND PERU, SIGNED AT THE FIRST CONFERENCE ON THE EXPLOITATION AND CONSERVATION OF THE MARITIME RESOURCES OF THE SOUTH PACIFIC, SANTIAGO, 18 AUGUST 1952

(*a*) DECLARATION ON THE MARITIME ZONE [4]

1. Governments are bound to ensure for their peoples access to necessary food supplies and to furnish them with the means of developing their economy.

2. It is therefore the duty of each Government to ensure the conservation and protection of its natural resources and to regulate the use thereof to the greatest possible advantage of its country.

3. Hence it is likewise the duty of each Government to prevent the said resources from being used outside the area of its jurisdiction so as to endanger their existence, integrity and conservation to the prejudice of peoples so situated geographically that their seas are irreplaceable sources of essential food and economic materials.

For the foregoing reasons the Government of Chile, Ecuador and Peru, being resolved to preserve for and make available to their respective peoples the natural resources of the areas of sea adjacent to their coasts, hereby declare as follows:

(I) Owing to the geological and biological factors affecting the existence, conservation and development of the marine fauna and flora of the waters adjacent to the coasts of the declarant countries, the former extent of the territorial sea and contiguous zone is insufficient to permit of the conservation, development and use of those resources, to which the coastal countries are entitled.

(II) The Governments of Chile, Ecuador and Peru therefore proclaim as a principle of their international maritime policy that each of them possesses sole sovereignty and jurisdiction over the area of sea adjacent to the coast of its own country and extending not less than 200 nautical miles from the said coast.

(III) Their sole jurisdiction and sovereignty over the zone thus described includes sole sovereignty and jurisdiction over the sea floor and subsoil thereof.

(IV) The zone of 200 nautical miles shall extend in every direction from any island or group of islands forming part of the territory of a declarant country. The maritime zone of an island or group of islands belonging to one declarant country and situated less than 200 nautical miles from the general maritime zone of another declarant country shall be bounded by the parallel of latitude drawn from the point at which the land frontier between the two countries reaches the sea.

(V) This Declaration shall not be construed as disregarding the necessary restrictions on the exercise of sovereignty and jurisdiction imposed by international law to permit the innocent and inoffensive passage of vessels of all nations through the zone aforesaid.

(VI) The Governments of Chile, Ecuador and Peru state that they intend to sign agreements or conventions to put into effect the principles set forth in this Declaration and to establish general regulations for the control and protection of hunting and fishing in their respective maritime zones and the control and co-ordination of the use and working of all other natural products or resources of common interest present in the said waters.

[3] Ratified by all the signatory States. Costa-Rica has acceded.

[4] *Revista Peruana de Derecho Internacional*, tomo XIV, No. 45, 1954, pp. 104 *et seq.* Translation by the Secretariat of the United Nations.

PROCLAMATION 2667

POLICY OF THE UNITED STATES WITH RESPECT TO THE NATURAL RESOURCES OF THE SUBSOIL AND SEA BED OF THE CONTINENTAL SHELF [1]

WHEREAS the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and

WHEREAS its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilization is already practicable or will become so at an early date; and

WHEREAS recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilization when and as development is undertaken; and

WHEREAS it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the effectiveness of measures to utilize or conserve these resources would be contingent upon cooperation and protection from the shore, since the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of the nature necessary for utilization of these resources;

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 28th day of September, in the year of our Lord nineteen hundred and forty-five, and of the Independence of the United States of America the one hundred and seventieth.

[SEAL]

HARRY S. TRUMAN

By the President:

DEAN ACHESON,
Acting Secretary of State.

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[1] See Executive Order 9633, *infra*.