INTERNATIONAL AND UNITED STATES DOCUMENTS ON OCEANS LAW AND POLICY

Edited by John Norton Moore

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CENTER FOR OCEANS LAW AND POLICY

University of Virginia School of Law

The Center for Oceans Law and Policy is a non-profit educational, research and archival institute located at the University of Virginia School of Law. Founded in 1976, the Center is supported by the Henry L. and Grace Doherty Charitable Foundation, Inc. In addition to its support of teaching and research at the University, the Center sponsors a series of lectures, forums and conferences to promote the interaction of scholars, policymakers and practitioners in business, science, government, academics and law. In conjunction with its research and publications programs, the Center supports the extensive collections of law materials in the Newlin Collection on Oceans Law and Policy in the Law School Library, as well as an archival collection on the Law of the Sea. In addition, the Center maintains a close relationship with the Marine Affairs Program and the Virginia Sea Grant College Program, both at the University of Virginia.

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.

SUMMARY OF CONTENTS

VOLUME III — INTERNATIONAL DOCUMENTS (continued)

I. POLAR POLICY
   1. Arctic
   2. Antarctic

J. MARINE SCIENTIFIC RESEARCH AND DEVELOPMENT

K. NON-LIVING RESOURCES UNDER NATIONAL JURISDICTION

L. EXCLUSIVE ECONOMIC ZONE

M. DEEP SEABED MINING

N. MARITIME BOUNDARIES

O. DISPUTE PREVENTION AND SETTLEMENT

P. SPECIAL REGIMES
   1. Danish Straits
   2. Kiel Canal
   3. Bosphorous, Dardanelles and the Black Sea
   4. Persian Gulf and the Strait of Hormuz
   5. Strait of Tiran and the Gulf of Aqaba
   6. Suez Canal
   7. Panama Canal

Q. COMMUNICATION
   1. Undersea Cables
   2. Broadcasting

R. MARITIME SECURITY
   1. Defensive Declarations
   2. Air Defense Identification Zones
   3. Claimed Ocean Defense Zones

S. ARMS CONTROL AND THE LAW OF NAVAL WARFARE

VOLUME IV — UNITED STATES DOCUMENTS

A. MERCHANT MARINE

B. PORT REGULATION AND DEVELOPMENT

C. SOCIAL CONDITIONS

D. LIVING RESOURCES
   1. Fisheries
      a. General
      b. Coastal Fisheries
      c. Sedentary Species

I. POLAR POLICY

1. Arctic

Treaty Relating to Spitzbergen (with annex), February 9, 1920*

* 43 Stat. 1892; T.S. 686; 2 L.N.T.S. 8.

No. 41. — TRAITÉ RELATIF A L'ARCHIPEL DU SPITSBERG, SIGNÉ A PARIS LE 9 FÉVRIER 1920.

Textes officiels français et anglais communiqués par la Conférence des Ambassadeurs au nom des Principales Puissances Alliées. L'enregistrement du Traité sus-mentionné a eu lieu le 21 octobre 1920.

LE PRÉSIDENT DES ETATS-UNIS D'AMÉRIQUE, SA MAJESTÉ LE ROI DE GRANDE BRETAGNE ET D'IRLANDE ET DES TERRITOIRES BRITANNIQUES AU DELÀ DES MERS, EMPEREUR DES INDES, SA MAJESTÉ LE ROI DE DANEMARK, LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE, SA MAJESTÉ LE ROI D'ITALIE, SA MAJESTÉ L'EMPEREUR DU JAPON, SA MAJESTÉ LE ROI DE NORVÈGE, SA MAJESTÉ LA REINE DES PAYS-BAS, SA MAJESTÉ LE ROI DE SUÈDE,

Désireux, en reconnaissant la souveraineté de la Norvège sur l'Archipel du Spitsberg, y compris l'Ile aux Ours, de voir ces régions pourvues d'un régime équitable propre à en assurer la mise en valeur et l'utilisation pacifique,

Ont désigné pour leurs plénipotentiaires respectifs en vue de conclure un Traité à cet effet :

LE PRÉSIDENT DES ETATS-UNIS D'AMÉRIQUE :

M. Hugh CAMPBELL WALLACE, Ambassadeur extraordinaire et plénipotentiaire des Etats-Unis d'Amérique, à Paris ;

SA MAJESTÉ LE ROI DE GRANDE-BRETAGNE ET D'IRLANDE ET DES TERRITOIRES BRITANNIQUES AU DELÀ DES MERS, EMPEREUR DES INDES :

[1] Au moment de la publication du présent numéro du « Recueil des Traités » seul le dépôt des instruments de ratification de Sa Majesté la Reine des Pays-Bas ayant eu lieu à Paris le 3 septembre 1920, a été communiqué au Secrétariat de la Société des Nations.

No. 41. — TREATY CONCERNING THE ARCHIPELAGO OF SPITSBERGEN, SIGNED AT PARIS, FEBRUARY 9, 1920.

French and English official texts forwarded by the Conference of Ambassadors on behalf of the Principal Allied Powers. The registration of the above mentioned Treaty took place on October 21, 1920.

THE PRESIDENT OF THE UNITED STATES OF AMERICA ; HIS MAJESTY THE KING OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA ; HIS MAJESTY THE KING OF DENMARK ; THE PRESIDENT OF THE FRENCH REPUBLIC ; HIS MAJESTY THE KING OF ITALY ; HIS MAJESTY THE EMPEROR OF JAPAN ; HIS MAJESTY THE KING OF NORWAY ; HER MAJESTY THE QUEEN OF THE NETHERLANDS ; HIS MAJESTY THE KING OF SWEDEN,

Desirous, while recognising the sovereignty Norway of over the Archipelago of Spitsbergen, including Bear Island, of seeing these territories provided with an equitable regime, in order to assure their development and peaceful utilisation,

Have appointed as their respective Plenipotentiaries with a view to concluding a Treaty to this effect :

THE PRESIDENT OF THE UNITED STATES OF AMERICA :

Mr. Hugh CAMPBELL WALLACE, Ambassador Extraordinary and Plenipotentiary of the United States of America at Paris ;

HIS MAJESTY THE KING OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

[1] At the time of publication of this number of the "Treaty Series" only the deposit of the instruments of ratification of Her Majesty the Queen of the Netherlands which took place in Paris on September 3, 1920 had been communicated to the Secretariat of the League of Nations.

Le Très Honorable Comte de DERBY, K. G., G. C. V. O., C. B., Ambassadeur extraordinaire et plénipotentiaire de S. M. Britannique, à Paris ;

Et,

pour le Dominion du Canada :
L'Honorable Sir George HALSEY PERLEY, K. C. M. G., Haut Commissaire du Canada dans le Royaume-Uni ;

pour le Commonwealth d'Australie :
Le Très Honorable Andrew FISHER, Haut Commissaire de l'Australie dans le Royaume-Uni ;

pour le Dominion de la Nouvelle-Zélande :
Le Très Honorable Sir Thomas MACKENZIE, K. C. M. G., Haut Commissaire de la Nouvelle-Zélande dans le Royaume-Uni ;

pour l'Union Sud-Africaine :
M. Reginald Andrew BLANKENBERG, O. B. E., faisant fonction de Haut Commissaire de l'Union Sud-Africaine dans le Royaume-Uni ;

pour l'Inde :
Le Très Honorable Comte de DERBY, K. G., G. C. V. O., C. B. ;

SA MAJESTÉ LE ROI DE DANEMARK :
M. Hermann ANKER BERNHOFT, Envoyé extraordinaire et Ministre Plénipotentiaire de S. M. le Roi de Danemark, à Paris ;

LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE :
M. Alexandre MILLERAND, Président du Conseil, Ministre des Affaires Etrangères ;

SA MAJESTÉ LE ROI D'ITALIE :
L'Honorable Maggiorino FERRARIS, Sénateur du Royaume ;

SA MAJESTÉ L'EMPEREUR DU JAPON :
M. K. MATSUI, Ambassadeur extraordinaire et Plénipotentiaire de S. M. l'Empereur du Japon, à Paris ;

SA MAJESTÉ LE ROI DE NORVÈGE :
M. le Baron de WEDEL JARLSBERG, Envoyé extraordinaire et Ministre Plénipotentiaire de S. M. le Roi de Norvège, à Paris ;

The Right Honourable the Earl of DERBY, K. G., G. C. V. O., C. B., His Ambassador Extraordinary and Plenipotentiary at Paris ;

And :

for the Dominion of Canada :
The Right Honourable Sir George HALSEY PERLEY, K. C. M. G., High Commissioner for Canada in the United Kingdom ;

for the Commonwealth of Australia :
The Right Honourable Andrew FISHER, High Commissioner for Australia in the United Kingdom ;

for the Dominion of New Zealand :
The Right Honourable Sir Thomas MACKENZIE, K. C. M. G., High Commissioner for New Zealand in the United Kingdom ;

for the Union of South Africa :
Mr. Reginald Andrew BLANKENBERG, O. B. E., Acting High Commissioner for South Africa in the United Kingdom ;

for India :
The Right Honourable the Earl of DERBY, K. G., G. C. V. O., C. B. ;

HIS MAJESTY THE KING OF DENMARK :
Mr. Hermann ANKER BERNHOFT, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of Denmark at Paris ;

THE PRESIDENT OF THE FRENCH REPUBLIC :
Mr. Alexandre MILLERAND, President of the Council, Minister for Foreign Affairs ;

HIS MAJESTY THE KING OF ITALY :
The Honourable Maggiorino FERRARIS, Senator of the Kingdom ;

HIS MAJESTY THE EMPEROR OF JAPAN :
Mr. K. MATSUI, Ambassador Extraordinary and Plenipotentiary of H. M. the Emperor of Japan at Paris ;

HIS MAJESTY THE KING OF NORWAY :
Baron WEDEL JARLSBERG, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of Norway at Paris ;

SA MAJESTÉ LA REINE DES PAYS-BAS :

M. John LOUDON, Envoyé extraordinaire et Ministre Plénipotentiaire de S. M. la Reine des Pays-Bas, à Paris ;

SA MAJESTÉ LE ROI DE SUÈDE :

M. le Comte J.-J.-A. EHRENSVÄRD, Envoyé extraordinaire et Ministre Plénipotentiaire de S. M. le Roi de Suède, à Paris ;

Lesquels, après avoir échangé leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des stipulations ci-après :

Article 1.

Les Hautes Parties Contractantes sont d'accord pour reconnaître, dans les conditions stipulées par le présent Traité, la pleine et entière souveraineté de la Norvège sur l'Archipel du Spitsberg comprenant, avec l'île aux Ours ou Beeren-Eiland, toutes les îles situées entre les 10° et 35° de longitude Est de Greenwich et entre les 74° et 81° de latitude Nord, notamment : le Spitsberg occidental, la Terre du Nord-Est, l'île de Barents, l'île d'Edge, les îles Wiche, l'île d'Espérance ou Hopen-Eiland, et la Terre du Prince-Charles, ensemble les îles, îlots et rochers qui en dépendent.

Article 2.

Les navires et ressortissants de toutes les Hautes Parties contractantes seront également admis à l'exercice du droit de pêche et de chasse dans les régions visées à l'article 1er et leurs eaux territoriales.

Il appartiendra à la Norvège de maintenir, prendre ou édicter les mesures propres à assurer la conservation et, s'il y a lieu, la reconstitution de la faune et de la flore dans lesdites régions et leurs eaux territoriales, étant entendu que ces mesures devront toujours être également applicables aux ressortissants de toutes les Hautes Parties contractantes, sans exemption, privilèges et faveurs quelconques, directs ou indirects, au profit de l'une quelconque d'entre elles.

Les occupants dont les droits seront reconnus selon les termes des articles 6 et 7 jouiront du droit exclusif de chasse sur leurs fonds de terre : 1° à proximité des habitations, des maisons, des magasins, des usines, des installa-

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Mr. John LOUDON, Envoy Extraordinary and Plenipotentiary of H. M. the Queen of the Netherlands at Paris ;

HIS MAJESTY THE KING OF SWEDEN :

Count J.-J.-A. EHRENSVÄRD, Envoy Extraordinary and Minister Plenipotentiary of H. M. the King of Sweden at Paris ;

Who, having communicated their full powers, found in good and due form, have agreed as follows :

Article 1.

The High Contracting Parties undertake to recognise, subject to the stipulations of the present Treaty, the full and absolute sovereignty of Norway over the Archipelago of Spitsbergen, comprising, with Bear Island or Beeren-Eiland, all the islands situated between 10° and 35° longitude East of Greenwich and between 74° and 81° latitude North, especially West Spitsbergen, North-East Land, Barents Island, Edge Island, Wiche Islands, Hope Island or Hopen-Eiland, and Prince Charles Foreland, together with all islands great or small and rocks appertaining thereto.

Article 2.

Ships and nationals of all the High Contracting Parties shall enjoy equally the rights of fishing and hunting in the territories specified in article 1 and in their territorial waters.

Norway shall be free to maintain, take or decree suitable measures to ensure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions, and their territorial waters ; it being clearly understood that these measures shall always be applicable equally to the nationals of all the High Contracting Parties without any exemption, privilege or favour whatsoever, direct or indirect to the advantage of any one of them.

Occupiers of land whose rights have been recognised in accordance with the terms of Articles 6 and 7 will enjoy the exclusive right of hunting on their own land : (1) in the neighbourhood of their habitations, houses, stores,

tions aménagées aux fins de l'exploitation du fonds de terre, dans les conditions fixées par les règlements de la police locale ; 2° dans un rayon de 10 kilomètres autour du siège principal des entreprises ou exploitations ; et dans les deux cas, sous réserve de l'observation des règlements édictés par le Gouvernement norvégien dans les conditions énoncées au présent article.

Article 3.

Les ressortissants de toutes les Hautes Parties Contractantes auront une égale liberté d'accès et de relâche pour quelque cause et objet que ce soit, dans les eaux, fjords et ports des régions visées à l'article 1er ; ils pourront s'y livrer, sans aucune entrave, sous réserve de l'observation des lois et règlements locaux, à toutes opérations maritimes, industrielles, minières et commerciales sur un pied de parfaite égalité.

Ils seront admis dans les mêmes conditions d'égalité à l'exercice et à l'exploitation de toutes entreprises maritimes, industrielles, minières ou commerciales, tant à terre que dans les eaux territoriales, sans qu'aucun monopole, à aucun égard et pour quelque entreprise que ce soit, puisse être établi.

Nonobstant les règles qui seraient en vigueur en Norvège relativement au cabotage, les navires des Hautes Parties contractantes en provenance ou à destination des régions visées à l'article 1er, auront le droit de relâcher, tant à l'aller qu'au retour, dans les ports norvégiens, pour embarquer ou débarquer des voyageurs ou des marchandises en provenance ou à destination desdites régions, ou pour toute autre cause.

Il est entendu qu'à tous égards, et notamment en tout ce qui concerne l'exportation, l'importation et le transit, les ressortissants de toutes les Hautes Parties Contractantes, leurs navires et leurs marchandises, ne seront soumis à aucune charge ni restriction quelconque, qui ne sera pas appliquée aux ressortissants, aux navires ou aux marchandises jouissant en Norvège du traitement de la nation la plus favorisée, les ressortissants norvégiens, leurs navires et leurs marchandises étant dans ce but assimilés à ceux des autres Hautes Parties Contractantes, et ne jouissant d'un traitement plus favorable à aucun égard.

L'exportation de toutes marchandises destinées au territoire d'une quelconque des Puis-

factories and installations, constructed for the purpose of developing their property, under conditions laid down by the local police regulations ; (2) within a radius of 10 kilometres round the head-quarters of their place of business or works ; and in both cases, subject always to the observance of regulations made by the Norwegian Government in accordance with the conditions laid down in the present Article.

Article 3.

The nationals of all the High Contracting Parties shall have equal liberty of access and entry for any reason or object whatever to the waters, fjords and ports of the territories specified in Article 1 ; subject to the observance of local laws and regulations, they may carry on there without impediment all maritime, industrial, mining and commercial operations on a footing of absolute equality.

They shall be admitted under the same conditions of equality to the exercise and practice of all maritime, industrial, mining or commercial entreprises both on land and in the territorial waters, and no monopoly shall be established on any account or for any entreprise whatever.

Notwithstanding any rules relating to coasting trade which may be in force in Norway, ships of the High Contracting Parties going to or coming from the territories specified in Article 1 shall have the right to put into Norwegian ports on their outward or homeward voyage for the purpose of taking on board or disembarking passengers or cargo going to or coming from the said territories, or for any other purpose.

It is agreed that in every respect and especially with regard to exports, imports and transit traffic, the nationals of all the High Contracting Parties, their ships and goods shall not be subject to any charges or restrictions whatever which are not borne by the nationals, ships or goods which enjoy in Norway the treatment of the most favoured nation ; Norwegian nationals, ships or goods being for this purpose assimilated to those of the other High Contracting Parties, and not treated more favourably in any respect.

No charge or restriction shall be imposed on the exportation of any goods to the territories

sances Contractantes ne devra être frappée d'aucune charge ni restriction qui puissent être différentes ou plus onéreuses que celles prévues à l'exportation de marchandises de la même espèce à destination du territoire d'une autre Puissance contractante (y compris la Norvège) ou de tout autre pays.

Article 4.

Toute station publique de télégraphie sans fil établie ou à établir, avec l'autorisation ou par les soins du Gouvernement norvégien, dans les régions visées à l'article 1er, devra toujours être ouverte sur un pied de parfaite égalité aux communications des navires de tous pavillons et des ressortissants des Hautes Parties contractantes dans les conditions prévues par la Convention radio-télégraphique du 5 juillet 1912 ou de la Convention internationale qui serait conclue pour être substituée à celle-ci.

Sous réserve des obligations internationales résultant d'un état de guerre, les propriétaires d'un bien-fonds pourront toujours établir et utiliser pour leurs propres affaires des installations de télégraphie sans fil qui auront la liberté de communiquer pour affaires privées avec des stations fixes ou mobiles, y compris les stations établies sur les navires et les aéronefs.

Article 5.

Les Hautes Parties Contractantes reconnaissent l'utilité d'établir dans les régions visées à l'article 1er une station internationale de météorologie, dont l'organisation fera l'objet d'une Convention ultérieure.

Il sera pourvu également, par voie de convention, aux conditions dans lesquelles les recherches d'ordre scientifique pourront être effectuées dans lesdites régions.

Article 6.

Sous réserve des dispositions du présent article, les droits acquis appartenant aux ressortissants des Hautes Parties Contractantes seront reconnus valables.

Les réclamations relativement aux droits résultant de prises de possession ou d'occupation antérieures à la signature du présent Traité seront réglées d'après les dispositions de l'Annexe ci-jointe, qui aura même force et valeur que le présent Traité.

of any of the Contracting Powers other or more onerous than on the exportation of similar goods to the territory of any other Contracting Power (including Norway) or to any other destination.

Article 4.

All public wireless telegraphy stations established or to be established by or with the authorisation of, the Norwegian Government within the territories referred to in Article 1 shall always be open on a footing of absolute equality to communications from ships of all flags and from nationals of the High Contracting Parties, under the conditions laid down in the Wireless Telegraphy Convention of July 5th, 1912, or in the subsequent International Convention which may be concluded to replace it.

Subject to international obligations arising out of a state of war, owners of landed property shall always be at liberty to establish and use for their own purposes wireless telegraphy installations, which shall be free to communicate on private business with fixed or moving wireless stations, including those on board ships and aircraft.

Article 5.

The High Contracting Parties recognise the utility of establishing an international meteorological station in the territories specified in Article 1, the organisation of which shall form the subject of a subsequent Convention.

Conventions shall also be concluded laying down the conditions under which scientific investigations may be conducted in the said territories.

Article 6.

Subject to the provisions of the present Article, acquired rights of nationals of the High Contracting Parties shall be recognised.

Claims arising from taking possession or from occupation of land before the signature of the present Treaty shall be dealt with in accordance with the Annex hereto, which will have the same force and effect as the present Treaty.

Article 7.

Dans les régions visées à l'article 1er, la Norvège s'engage à accorder à tous les ressortissants des Hautes Parties Contractantes, en ce qui concerne les modes d'acquisition, la jouissance et l'exercice du droit de propriété y compris les droits miniers, un traitement basé sur une parfaite égalité et conforme aux stipulations du présent Traité.

Il ne pourra être effectué d'expropriation que pour cause d'utilité publique et contre le versement d'une juste indemnité.

Article 8.

La Norvège s'engage à pourvoir les régions visées à l'article 1er d'un régime minier qui, notamment au point de vue des impôts, taxes ou redevances de toute nature, des conditions générales et particulières du travail, devra exclure tout privilèges, monopoles ou faveurs, tant au profit de l'Etat qu'au profit des ressortissants d'une des Hautes Parties Contractantes, y compris la Norvège, et assurer au personnel salarié de toute catégorie les garanties de salaire et de protection nécessaires à leur bien-être physique, moral et intellectuel.

Les impôts, taxes et droits qui seront perçus devront être exclusivement consacrés aux dites régions et ne pourront être établis que dans la mesure où ils seront justifiés par leur objet.

En ce qui concerne spécialement l'exportation des minerais, le Gouvernement norvégien aura la faculté d'établir une taxe à l'exportation, toutefois cette taxe ne pourra être supérieure à 1 pour 100 de la valeur maxima des minerais exportés jusqu'à concurrence de 100,000 tonnes, et au-dessus de cette quantité, la taxe suivra une proportion décroissante. La valeur sera déterminée à la fin de la saison navigable en calculant le prix moyen franco-bord.

Trois mois avant la date prévue pour sa mise en vigueur, le projet de régime minier devra être communiqué par le gouvernement norvégien aux autres Puissances contractantes. Si, dans ce délai, une ou plusieurs desdites Puissances proposaient d'apporter des modifications à cette réglementation avant qu'elle soit appliquée, ces propositions seraient communiquées par le Gouvernement norvégien aux autres Puissances contractantes, pour être soumises à l'examen et à la décision d'une Commis-

Article 7.

With regard to methods of acquisition, enjoyment and exercise of the right of ownership of property, including mineral rights, in the territories specified in Article 1, Norway undertakes to grant to all nationals of the High Contracting Parties treatment based on complete equality and in conformity with the stipulations of the present Treaty.

Expropriation may be resorted to only on grounds of public utility and on payment of proper compensation.

Article 8.

Norway undertakes to provide for the territories specified in Article 1 mining regulations which, especially from the point of view of imposts, taxes or charges of any kind, and of general or particular labour conditions, shall exclude all privileges, monopolies or favours for the benefit of the State or of the nationals of any one of the High Contracting Parties, including Norway, and shall guarantee to the paid staff of all categories the remuneration and protection necessary for their physical, moral and intellectual welfare.

Taxes, dues and duties levied shall be devoted exclusively to the said territories and shall not exceed what is required for the object in view.

So far, particularly, as the exportation of minerals is concerned, the Norwegian Government shall have the right to levy an export duty which shall not exceed 1% of the maximum value of the minerals exported up to 100,000 tons, and beyond that quantity the duty will be proportionately diminished. The value shall be fixed at the end of the navigation season by calculating the average free on board price obtained.

Three months before the date fixed for their coming into force, the draft mining regulations shall be communicated by the Norwegian Government to the other Contracting Powers. If during this period one or more of the said Powers propose to modify these regulations before they are applied, such proposals shall be communicated by the Norwegian Government to the other Contracting Powers in order that they may be submitted to examination and the decision of a

sion composée d'un représentant de chacune desdites Puissances. Cette Commission sera réunie par le Gouvernement norvégien et devra statuer dans un délai de trois mois à dater de sa réunion. Ses décisions seront prises à la majorité des voix.

Article 9.

Sous réserve des droits et devoirs pouvant résulter pour la Norvège de son adhésion à la Société des Nations, la Norvège s'engage à ne créer et à ne laisser s'établir aucune base navale dans les régions visées à l'article 1er, à ne construire aucune fortification dans lesdites régions, qui ne devront jamais être utilisées dans un but de guerre.

Article 10.

En attendant que la reconnaissance par les Hautes Parties contractantes d'un gouvernement russe permette à la Russie d'adhérer au présent Traité, les nationaux et sociétés russes jouiront des mêmes droits que les ressortissants des Hautes Parties Contractantes.

Les réclamations qu'ils auraient à faire valoir dans les régions visées à l'article 1er seront présentées, dans les conditions stipulées par l'article 6 et l'Annexe du présent Traité, par les soins du gouvernement Danois, qui consent à prêter, dans ce but, ses bons offices.

Le PRÉSENT TRAITÉ, dont les textes français et anglais feront foi, sera ratifié.

Le dépôt des ratifications sera effectué à Paris, le plus tôt qu'il sera possible.

Les Puissances dont le Gouvernement a son siège hors d'Europe auront la faculté de se borner à faire connaître au Gouvernement de la République française, par leur représentant diplomatique à Paris, que leur ratification a été donnée et, dans ce cas, elles devront en transmettre l'instrument aussitôt que faire se pourra.

Le présent Traité entrera en vigueur, en ce qui concerne les stipulations de l'article 8, dès qu'il aura été ratifié par chacune des Puissances signataires, et, à tous autres égards, en même temps que le régime minier prévu au dit article.

Les tierces Puissances seront invitées par le

Commission composed of one representative of each of the said Powers. This Commission shall meet at the invitation of the Norwegian Government and shall come to a decision within a period of three months from the date of its first meeting. Its decisions shall be taken by a majority.

Article 9.

Subject to the rights and duties resulting from the admission of Norway to the League of Nations, Norway undertakes not to create nor to allow the establishment of any naval base in the territories specified in Article 1 and not to construct any fortification in the said territories, which may never be used for warlike purposes.

Article 10.

Until the recognition by the High Contracting Parties of a Russian Government shall permit Russia to adhere to the present Treaty, Russian nationals and companies shall enjoy the same rights as nationals of the High Contracting Parties.

Claims in the territories specified in Article 1 which they may have to put forward shall be presented under the conditions laid down in the present Treaty (Article 6 and Annex) through the intermediary of the Danish Government, who declare their willingness to lend their good offices for this purpose.

The PRESENT TREATY, of which the French and English texts are both authentic, shall be ratified.

Ratifications shall be deposited at Paris as soon as possible.

Powers of which the seat of the Government is outside Europe may confine their action to informing the Government of the French Republic, through their diplomatic representative at Paris, that their ratification has been given, and in this case they shall transmit the instrument as soon as possible.

The present Treaty will come into force, in so far as the stipulations of Article 8 are concerned, from the date of its ratification by all the signatory Powers; and in all other respects on the same date as the mining regulations provided for in that Article.

Third Powers will be invited by the Govern-

Gouvernement de la République française à adhérer au présent Traité dûment ratifié. Cette adhésion sera effectuée par voie de notification adressée au Gouvernement français, à qui il appartiendra d'en aviser les autres Parties contractantes.

En foi de quoi, les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Paris, le neuf février 1920 en deux exemplaires, dont un sera remis au Gouvernement de Sa Majesté le Roi de Norvège et un restera déposé dans les archives du Gouvernement de la République française, et dont les expéditions authentiques seront remises aux autres Puissances signataires.

ment of the French Republic to adhere to the present Treaty duly ratified. This adhesion shall be effected by a communication addressed to the French Government, which will undertake to notify the other Contracting Parties.

In witness whereof the above named Plenipotentiairies have signed the present Treaty.

Done at Paris, the ninth day of February, 1920, in duplicate, one copy to be transmitted to the Government of His Majesty the King of Norway, and one deposited in the archives of the French Republic; anthenticated copies will be transmitted to the other Signatory Powers.

(L. S.) HUGH C. WALLACE.
(L. S.) DERBY.
(L. S.) GEORGE H. PERLEY.
(L. S.) ANDREW FISHER.
(L. S.) TH. MACKENZIE.
(L. S.) R. A. BLANKENBERG.
(L. S.) DERBY.
(L. S.) H. A. BERNHOFT
(L. S.) A. MILLERAND.
(L. S.) MAGGIORINO FERRARIS.
(L. S.) K. MATSUI.
(L. S.) WEDEL JARLSBERG.
(L. S.) J. LOUDON.
(L. S.) J. EHRENSVÄRD.

ANNEXE.

§ 1.

1° Dans un délai de trois mois à dater de la mise en vigueur du présent Traité, toutes les revendications territoriales qui auraient déjà été formulées auprès des Gouvernements des diverses Puissances antérieurement à la signature du présent Traité devront être notifiées par le Gouvernement du reclamant à un Commissaire chargé d'examiner ces revendications. Ce Commissaire sera un juge ou un jurisconsulte de nationalité danoise possédant les qualités nécessaires et désigné par le Gouvernement danois.

ANNEX.

1.

(1) Within three months from the coming into force of the present Treaty, notification of all claims to land which had been made to any Government before the signature of the present Treaty must be sent by the Government of the claimant to a Commissioner charged to examine such claims. The Commissioner will be a judge or jurisconsult of Danish nationality possessing the necessary qualifications for the task, and shall be nominated by the Danish Government.

Arctic Water Pollution Prevention Act (Canada), 1970*

* Bill C-202, 9 I.L.M. 543 (1970).

CANADIAN LEGISLATION ON ARCTIC POLLUTION AND TERRITORIAL SEA AND FISHING ZONES*

THE HOUSE OF COMMONS OF CANADA

BILL C-202

An Act to prevent pollution of areas of the arctic waters adjacent to the mainland and islands of the Canadian arctic

Preamble

Whereas Parliament recognises that recent developments in relation to the exploitation of the natural resources of arctic areas, including the natural resources of the Canadian arctic, and the transportation of those resources to the markets of the world are of potentially great significance to international trade and commerce and to the economy of Canada in particular;

And whereas Parliament at the same time recognises and is determined to fulfil its obligation to see that the natural resources of the Canadian arctic are developed and exploited and the arctic waters adjacent to the mainland and islands of the Canadian arctic are navigated only in a manner that takes cognizance of Canada's responsibility for the welfare of the Eskimo and other inhabitants of the Canadian arctic and the preservation of the peculiar ecological balance that now exists in the water, ice and land areas of the Canadian arctic;

Now therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Arctic Waters Pollution Prevention Act*.

INTERPRETATION

Definitions

2. In this Act,

"Analyst"

(*a*) "analyst" means a person designated as an analyst pursuant to the *Canada Water Act* or the *Northern Inland Waters Act*;

"Icebreaker"

(*b*) "icebreaker" means a ship specially designed and constructed for the purpose of assisting the passage of other ships through ice;

"Owner"

(*c*) "owner" in relation to a ship, includes any person having for the time being, either by law or by contract, the same rights as the owner of the ship as regards the possession and use thereof;

"Pilot"

(*d*) "pilot" means a person licensed as a pilot pursuant to the *Canada Shipping Act*;

"Pollution prevention officer"

(*e*) "pollution prevention officer" means a person designated as a pollution prevention officer pursuant to section 14;

"Ship"

(*f*) "ship" includes any description of vessel or boat used or designed for use

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*[Reproduced from the text provided by the Canadian Embassy at Washington, D.C.

[Bills C-202 and C-203 were first read in the House of Commons on April 8, 1970. The bills require three readings to pass the House of Commons. As of May 7, 1970, they had received a second reading and were being considered in committee. From the Commons, the bills go to the Senate; three readings are also required in the Senate.

[The Canadian declaration of April 7, 1970, concerning the compulsory jurisdiction of the International Court of Justice, appears at page 598. The Canadian Prime Minister's remarks concerning the bills and the declaration appear at page 600. The U.S. statement on Canada's proposed legislation appears at page 605. A summary of the Canadian note of April 16, 1970, in reply to the U.S. Government, appears at page 607.]

in navigation without regard to method or lack of propulsion;

"Shipping safety control zone"

(*g*) "shipping safety control zone" means an area of the arctic waters prescribed as a shipping safety control zone by order of the Governor in Council made under section 11; and

"Waste"

(*h*) "waste" means

(i) any substance that, if added to any waters, would degrade or alter or form part of a process of degradation or alteration of the quality of those waters to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man, and

(ii) any water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any waters, degrade or alter or form part of a process of degradation or alteration of the quality of those waters to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man,

and without limiting the generality of the foregoing, includes anything that, for the purposes of the *Canada Water Act*, is deemed to be waste.

APPLICATION OF ACT

Application to arctic waters

3. (1) Except where otherwise provided, this Act applies to the waters (in this Act referred to as the "arctic waters") adjacent to the mainland and islands of the Canadian arctic within the area enclosed by the sixtieth parallel of north latitude, the one hundred and forty-first meridian of longitude and a line measured seaward from the nearest Canadian land a distance of one hundred nautical miles; except that in the area between the islands of the Canadian arctic and Greenland, where the line of equidistance between the islands of the Canadian arctic and Greenland is less than one hundred nautical miles from the nearest Canadian land, there shall be substituted for the line measured seaward one hundred nautical miles from the nearest Canadian land such line of equidistance.

Idem

(2) For greater certainty, the expression "arctic waters" in this Act includes all waters described in subsection (1) and, as this Act applies to or in respect of any person described in paragraph (*a*) of subsection (1) of section 6, all waters adjacent thereto lying north of the sixtieth parallel of north latitude, the natural resources of whose subjacent submarine areas Her Majesty in right of Canada has the right to dispose of or exploit, whether the waters so described or such adjacent waters are in a frozen or a liquid state, but does not include inland waters.

DEPOSIT OF WASTE

Prohibition

4. (1) Except as authorized by regulations made under this section, no person or ship shall deposit or permit the deposit of waste of any type in the arctic waters or in any place on the mainland or islands of the Canadian arctic under any conditions where such waste or any other waste that results from the deposit of such waste may enter the arctic waters.

Application of subsection (1)

(2) Subsection (1) does not apply to the deposit of waste in waters that form part of a water quality management area designated pursuant to the *Canada Water Act* if the waste so deposited is of a type and quantity and is deposited under conditions authorized by regulations made by the Governor in Council under paragraph (*a*) of subsection (2) of section 16 of that Act with respect to that water quality management area.

Regulations

(3) The Governor in Council may make regulations for the purposes of this section prescribing the type and quantity of waste, if any, that may be deposited by any person or ship in the arctic waters or in any place on the mainland or islands of the Canadian arctic under any conditions where such waste or any other waste that results from the deposit of such waste may enter the arctic waters, and prescribing the conditions under which any such waste may be so deposited.

Report of deposit of waste or danger thereof

5. (1) Any person who

(*a*) has deposited waste in violation of subsection (1) of section 4, or

(*b*) carries on any undertaking on the mainland or islands of the Canadian arc-

tic or in the arctic waters that, by reason of any accident or other occurrence, is in danger of causing any deposit of waste described in that subsection otherwise than of a type, in a quantity and under conditions prescribed by regulations made under that section,

shall forthwith report the deposit of waste or the accident or other occurrence to a pollution prevention officer at such location and in such manner as may be prescribed by the Governor in Council.

Report by master of ship

(2) The master of any ship that has deposited waste in violation of subsection (1) of section 4, or that is in distress and for that reason is in danger of causing any deposit of waste described in that subsection otherwise than of a type, in a quantity and under conditions prescribed by regulations made under that section, shall forthwith report the deposit of waste or the condition of distress to a pollution prevention officer at such location and in such manner as may be prescribed by the Governor in Council.

Civil liability resulting from deposit of waste

6. (1) The following persons, namely:

(*a*) any person who is engaged in exploring for, developing or exploiting any natural resource on any land adjacent to the arctic waters or in any submarine area subjacent to the arctic waters,

(*b*) any person who carries on any undertaking on the mainland or islands of the Canadian arctic or in the arctic waters, and

(*c*) the owner of any ship that navigates within the arctic waters and the owner or owners of the cargo of any such ship,

are respectively liable and, in the case of the owner of a ship and the owner or owners of the cargo thereof, are jointly and severally liable, up to the amount determined in the manner provided by regulations made under section 9 in respect of the activity or undertaking so engaged in or carried on or in respect of that ship, as the case may be,

(*d*) for all costs and expenses of and incidental to the taking of action described in subsection (2) on the direction of the Governor in Council, and

(*e*) for all actual loss or damage incurred by other persons

resulting from any deposit of waste described in subsection (1) of section 4 that is caused by or is otherwise attributable to that activity or undertaking or that ship, as the case may be.

Costs and expenses of Her Majesty

(2) Where the Governor in Council directs any action to be taken by or on behalf of Her Majesty in right of Canada to repair or remedy any condition that results from a deposit of waste described in subsection (1), or to reduce or mitigate any damage to or destruction of life or property that results or may reasonably be expected to result from such deposit of waste, the costs and expenses of and incidental to the taking of such action, to the extent that such costs and expenses can be established to have been reasonably incurred in the circumstances, are, subject to this section, recoverable by Her Majesty in right of Canada from the person or persons described in paragraph (*a*), (*b*) or (*c*) of that subsection, with costs, in proceedings brought or taken therefor in the name of Her Majesty.

Procedure for recovery of claims

(3) All claims pursuant to this section against a person or persons described in paragraph (*a*), (*b*) or (*c*) of subsection (1) may be sued for and recovered in any court of competent jurisdiction in Canada, and all such claims shall rank *pari passu* up to the limit of the amount determined in the manner provided by regulations made under section 9 in respect of the activity or undertaking engaged in or carried on by the person or persons against whom the claims are made, or in respect of the ship of which any such person is the owner or of all or part of whose cargo any such person is the owner.

Limitation period

(4) No proceedings in respect of a claim pursuant to this section shall be commenced after two years from the time when the deposit of waste in respect of which the proceedings are brought or taken occurred or first occurred, as the case may be, or could reasonably be expected to have become known to those affected thereby.

Nature and extent of liability

7. (1) The liability of any person pursuant to section 6 is absolute and does not depend upon proof of fault or negligence, except that no person is liable pursuant to that section for any costs, expenses or actual loss or damage incurred by another person whose conduct caused any deposit of waste described in subsection (1) of that section, or whose conduct contributed to any such deposit of waste, to the degree to which his conduct contributed thereto, and nothing in this Act shall be construed as

limiting or restricting any right of recourse or indemnity that a person liable pursuant to section 6 may have against any other person.

Idem

(2) For the purposes of subsection (1), a reference to any conduct of "another person" includes any wrongful act or omission by that other person or by any person for whose wrongful act or omission that other person is by law responsible.

Limitation on liability of cargo owner

(3) Notwithstanding anything in this Act, no person is liable pursuant to section 6, either alone or jointly and severally with any other person or persons, by reason only of his being the owner of all or any part of the cargo of a ship if he can establish that the cargo or part thereof of which he is the owner is of such a nature, or is of such a nature and is carried in such a quantity that, if it and any other cargo of the same nature that is carried by that ship were deposited by that ship in the arctic waters, the deposit thereof would not constitute a violation of subsection (1) of section 4.

Evidence of financial responsibility to be provided

8. (1) The Governor in Council may require

(*a*) any person who engages in exploring for, developing or exploiting any natural resource on any land adjacent to the arctic waters or in any submarine area subjacent to the arctic waters,

(*b*) any person who carries on any undertaking on the mainland or islands of the Canadian arctic or in the arctic waters that will or is likely to result in the deposit of waste in the arctic waters or in any place under any conditions where such waste or any other waste that results from the deposit of such waste may enter the arctic waters,

(*c*) any person, other than a person described in paragraph (*a*), who proposes to construct, alter or extend any work or works on the mainland or islands of the Canadian arctic or in the arctic waters that, upon completion thereof, will form all or part of an undertaking described in paragraph (*b*), or

(*d*) the owner of any ship that proposes to navigate or that navigates within any shipping safety control zone specified by the Governor in Council and, subject to subsection (3) of section 7, the owner or owners of the cargo of any such ship,

to provide evidence of financial responsibility, in the form of insurance or an indemnity bond satisfactory to the Governor in Council, or in any other form satisfactory to him, in an amount determined in the manner provided by regulations made under section 9.

Persons entitled to claim against insurance or bond

(2) Evidence of financial responsibility in the form of insurance or an indemnity bond shall be in a form that will enable any person entitled pursuant to section 6 to claim against the person or persons giving such evidence of financial responsibility to recover directly from the proceeds of such insurance or bond.

Regulations respecting manner of determining limit of liability

9. The Governor in Council may make regulations for the purposes of section 6 prescribing, in respect of any activity or undertaking engaged in or carried on by any person or persons described in paragraph (*a*), (*b*) or (*c*) of subsection (1) of section 6, or in respect of any ship of which any such person is the owner or of all or part of whose cargo any such person is the owner, the manner of determining the limit of liability of any such person or persons pursuant to that section, which prescribed manner shall, in the case of the owner of any ship and the owner or owners of the cargo thereof, take into account the size of such ship and the nature and quantity of the cargo carried or to be carried by it.

PLANS AND SPECIFICATIONS OF WORKS

Plans and specifications to be provided

10. (1) The Governor in Council may require any person who proposes to construct, alter or extend any work or works on the mainland or islands of the Canadian arctic or in the arctic waters that, upon completion thereof, will form all or part of an undertaking the operation of which will or is likely to result in the deposit of waste of any type in the arctic waters or in any place under any conditions where such waste or any other waste that results from the deposit of such waste may enter the arctic waters, to provide him with a copy of such plans and specifications relating to the work or works as will enable him to determine whether the deposit of waste that will or is likely to occur if the

construction, alteration or extension is carried out in accordance therewith would constitute a violation of subsection (1) of section 4.

Powers of Governor in Council

(2) If, after reviewing any plans and specifications provided to him under subsection (1) and affording to the person who provided those plans and specifications a reasonable opportunity to be heard, the Governor in Council is of the opinion that the deposit of waste that will or is likely to occur if the construction, alteration or extension is carried out in accordance with such plans and specifications would constitute a violation of subsection (1) of section 4, he may, by order, either

(a) require such modifications in those plans and specifications as he considers to be necessary, or

(b) prohibit the carrying out of the construction, alteration or extension.

SHIPPING SAFETY CONTROL ZONES

Prescription of shipping safety control zones

11. (1) Subject to subsection (2), the Governor in Council may, by order, prescribe as a shipping safety control zone any area of the arctic waters specified in the order, and may, as he deems necessary, amend any such area.

Publication of proposed orders

(2) A copy of each order that the Governor in Council proposes to make under subsection (1) shall be published in the *Canada Gazette;* and no order may be made by the Governor in Council under subsection (1) based upon any such proposal except after the expiration of sixty days following publication of the proposal in the *Canada Gazette.*

Regulations relating to navigation in shipping safety control zones

12. (1) The Governor in Council may make regulations applicable to ships of any class or classes specified therein, prohibiting any ship of that class or of any of those classes from navigating within any shipping safety control zone specified therein

(a) unless the ship complies with standards prescribed by the regulations relating to

(i) hull and fuel tank construction, including the strength of materials used therein, the use of double hulls and the subdivision thereof into watertight compartments,

(ii) the construction of machinery and equipment and the electronic and other navigational aids and equipment and telecommunications equipment to be carried and the manner and frequency of maintenance thereof,

(iii) the nature and construction of propelling power and appliances and fittings for steering and stabilizing,

(iv) the manning of the ship, including the number of navigating and look-out personnel to be carried who are qualified in a manner prescribed by the regulations,

(v) with respect to any type of cargo to be carried, the maximum quantity thereof that may be carried, the method of stowage thereof and the nature or type and quantity of supplies and equipment to be carried for use in repairing or remedying any condition that may result from the deposit of any such cargo in the arctic waters,

(vi) the freeboard to be allowed and the marking of load lines,

(vii) quantities of fuel, water and other supplies to be carried, and

(viii) the maps, charts, tide tables and any other documents or publications relating to navigation in the arctic waters to be carried;

(b) without the aid of a pilot, or of an ice navigator who is qualified in a manner prescribed by the regulations, at any time or during any period or periods of the year, if any, specified in the regulations, or without icebreaker assistance of a kind prescribed by the regulations; and

(c) during any period or periods of the year, if any, specified in the regulations or when ice conditions of a kind specified in the regulations exist in that zone.

Orders exempting certain ships

(2) The Governor in Council may by order exempt from the application of any regulations made under subsection (1) any ship or class of ship that is owned or operated by a sovereign power other than Canada where the Governor in Council is satisfied that appropriate measures have been taken by or under the authority of that sovereign power to ensure the compliance of such ship with, or with standards

substantially equivalent to, standards prescribed by regulations made under paragraph (a) of subsection (1) that would otherwise be applicable to it within any shipping safety control zone, and that in all other respects all reasonable precautions have been or will be taken to reduce the danger of any deposit of waste resulting from the navigation of such ship within that shipping safety control zone.

Certificates evidencing compliance

(3) The Governor in Council may make regulations providing for the issue to the owner or master of any ship that proposes to navigate within any shipping safety control zone specified therein, of a certificate evidencing, in the absence of any evidence to the contrary, the compliance of such ship with standards prescribed by regulations made under paragraph (a) of subsection (1) that are or would be applicable to it within that shipping safety control zone, and governing the use that may be made of any such certificate and the effect that may be given thereto for the purposes of any provision of this Act.

Destruction or removal of ships in distress

13. (1) Where the Governor in Council has reasonable cause to believe that a ship that is within the arctic waters and is in distress, stranded, wrecked, sunk or abandoned, is depositing waste or is likely to deposit waste in the arctic waters, he may cause the ship or any cargo or other material on board the ship to be destroyed, if necessary, or to be removed if possible to such place and sold in such manner as he may direct.

Application of proceeds of sale

(2) The proceeds from the sale of a ship or any cargo or other material pursuant to subsection (1) shall be applied towards meeting the expenses incurred by the Government of Canada in removing and selling the ship, cargo or other material, and any surplus shall be paid to the owner of that ship, cargo or other material.

POLLUTION PREVENTION OFFICERS

Appointment

14. (1) The Governor in Council may designate any person as a pollution prevention officer with such of the powers set out in sections 15 and 23 as are specified in the certificate of designation of such person.

Certificate of designation

(2) A pollution prevention officer shall be furnished with a certificate of his designation specifying the powers set out in sections 15 and 23 that are vested in him, and a pollution prevention officer, on exercising any such power shall, if so required, produce the certificate to any person in authority who is affected thereby and who requires him to do so.

Powers

15. (1) A pollution prevention officer may, at any reasonable time,

(a) enter any area, place or premises (other than a ship, a private dwelling place or any part of any area, place or premises other than a ship that is designed to be used and is being used as a permanent or temporary private dwelling place) occupied by any person described in paragraph (a) or (b) of subsection (1) of section 8, in which he reasonably believes

(i) there is being or has been carried on any activity that may result in or has resulted in waste, or

(ii) there is any waste

that may be or has been deposited in the arctic waters or on the mainland or islands of the Canadian arctic under any conditions where such waste or any other waste that results from the deposit of such waste may enter the arctic waters in violation of subsection (1) of section 4;

(b) examine any waste found therein in bulk or open any container found therein that he has reason to believe contains any waste and take samples thereof; and

(c) require any person in such area, place or premises to produce for inspection or for the purpose of obtaining copies thereof or extracts therefrom, any books or other documents or papers concerning any matter relevant to the administration of this Act or the regulations.

Powers in relation to works

(2) A pollution prevention officer may, at any reasonable time,

(a) enter any area, place or premises (other than a ship, a private dwelling place or any part of any area, place or premises other than a ship that is designed to be used and is being used as a permanent or temporary private dwelling place) in which any construction, alteration or extension of a work or works described in section 10 is being carried on; and

(b) conduct such inspections of the work or works being constructed, altered or extended as he deems necessary in order to determine whether any plans and specifications provided to the Governor in Council, and any modifications required by the Governor in Council, are being complied with.

Powers in relation to ships

(3) A pollution prevention officer may

(a) go on board any ship that is within a shipping safety control zone and conduct such inspections thereof as will enable him to determine whether the ship complies with standards prescribed by any regulations made under section 12 that are applicable to it within that shipping safety control zone;

(b) order any ship that is in or near a shipping safety control zone to proceed outside such zone in such manner as he may direct, to remain outside such zone or to anchor in a place selected by him,

(i) if he suspects, on reasonable grounds, that the ship fails to comply with standards prescribed by any regulations made under section 12 that are or would be applicable to it within that shipping safety control zone,

(ii) if such ship is within the shipping safety control zone or is about to enter the zone in contravention of a regulation made under paragraph (b) or (c) of subsection (1) of section 12, or

(iii) if, by reason of weather, visibility, ice or sea conditions, the condition of the ship or its equipment or the nature or condition of its cargo, he is satisfied that such an order is justified in the interests of safety; and

(c) where he is informed that a substantial quantity of waste has been deposited in the arctic waters or has entered the arctic waters, or where on reasonable grounds, he is satisfied that a grave and imminent danger of a substantial deposit of waste in the arctic waters exists,

(i) order all ships within a specified area of the arctic waters to report their positions to him, and

(ii) order any ship to take part in the clean-up of such waste or in any action to control or contain the waste.

Assistance to pollution prevention officer

16. The owner or person in charge of any area, place or premises entered pursuant to subsection (1) or (2) of section 15, the master of any ship boarded pursuant to paragraph (a) of subsection (3) of that section and every person found in the area, place or premises or on board the ship shall give a pollution prevention officer all reasonable assistance in his power to enable the pollution prevention officer to carry out his duties and functions under this Act and shall furnish the pollution prevention officer with such information as he may reasonably require.

Obstruction of pollution prevention officer

17. (1) No person shall obstruct or hinder a pollution prevention officer in the carrying out of his duties or functions under this Act.

False statements

(2) No person shall knowingly make a false or misleading statement, either verbally or in writing, to a pollution prevention officer engaged in carrying out his duties or functions under this Act.

OFFENCES

Deposit of waste by persons or ships

18. (1) Any person who violates subsection (1) of section 4 and any ship that violates that subsection is guilty of an offence and liable on summary conviction to a fine not exceeding, in the case of a person, five thousand dollars, and in the case of a ship, one hundred thousand dollars.

Continuing offences

(2) Where an offence is committed by a person under subsection (1) on more than one day or is continued by him for more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.

Additional offences by persons

19. (1) Any person who

(a) fails to make a report to a pollution prevention officer as and when required under subsection (1) of section 5,

(b) fails to provide the Governor in Council with evidence of financial responsibility as and when required under subsection (1) of section 8,

(c) fails to provide the Governor in Council with any plans and specifications required of him under subsection (1) of section 10, or

(d) constructs, alters or extends any work described in subsection (1) of section 10

(i) otherwise than in accordance with any plans and specifications provided to the Governor in Council in accordance with a requirement made under that subsection, or with any such plans and specifications as required to be modified by any order made under subsection (2) of that section, or

(ii) contrary to any order made under subsection (2) of that section prohibiting the carrying out of such construction, alteration or extension,

is guilty of an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Additional offences by ships

(2) Any ship

(a) that navigates within a shipping safety control zone while not complying with standards prescribed by any regulations made under section 12 that are applicable to it within that shipping safety control zone,

(b) that navigates within a shipping safety control zone in contravention of a regulation made under paragraph (b) or (c) of subsection (1) of section 12,

(c) that, having taken on board a pilot in order to comply with a regulation made under paragraph (b) of subsection (1) of section 12, fails to comply with any reasonable direction given to it by the pilot in carrying out his duties,

(d) that fails to comply with any order of a pollution prevention officer under paragraph (b) or (c) of subsection (3) of section 15 that is applicable to it,

(e) the master of which fails to make a report to a pollution prevention officer as and when required under subsection (2) of section 5, or

(f) the master of which or any person on board which violates section 17,

is guilty of an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Obstruction of pollution prevention officer, etc.

(3) Any person, other than the master of a ship or any person on board a ship, who violates section 17 is guilty of an offence punishable on summary conviction.

Proof of offence by person

20. (1) In a prosecution of a person for an offence under subsection (1) of section 18, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.

Proof of offence by ship

(2) In a prosecution of a ship for an offence under this Act, it is sufficient proof that the ship has committed the offence to establish that the act or neglect that constitutes the offence was committed by the master of or any person on board the ship, other than a pollution prevention officer or a pilot taken on board in compliance with a regulation made under paragraph (b) of subsection (1) of section 12, whether or not the person on board the ship has been identified; and for the purposes of any prosecution of a ship for failing to comply with any order or direction of a pollution prevention officer or a pilot, any order given by such pollution prevention officer or any direction given by such pilot to the master or any person on board the ship shall be deemed to have been given to the ship.

Certificate of analyst

21. (1) Subject to this section, a certificate of an analyst stating that he has analysed or examined a sample submitted to him by a pollution prevention officer and stating the result of his analysis or examination is admissible in evidence in any prosecution for a violation of subsection (1) of section 4 and in the absence of evidence to the contrary is proof of the statements contained in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate.

Attendance of analyst

(2) The party against whom a certificate of an analyst is produced pursuant to sub-

section (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

Notice

(3) No certificate shall be received in evidence pursuant to subsection (1) unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate.

Jurisdiction in relation to offences

22. (1) Where any person or ship is charged with having committed an offence under this Act, any court in Canada that would have had cognizance of the offence if it had been committed by a person within the limits of its ordinary jurisdiction has jurisdiction to try the offence as if it had been so committed.

Service on ship and appearance at trial

(2) Where a ship is charged with having committed an offence under this Act, the summons may be served by leaving the same with the master or any officer of the ship or by posting the summons on some conspicuous part of the ship, and the ship may appear by counsel or agent, but if it does not appear, a summary conviction court may, upon proof of service of the summons, proceed *ex parte* to hold the trial.

SEIZURE AND FORFEITURE

Seizure of ship and cargo

23. (1) Whenever a pollution prevention officer suspects on reasonable grounds that

(a) any provision of this Act or the regulations has been contravened by a ship, or

(b) the owner of a ship or the owner or owners of all or part of the cargo thereof has or have committed an offence under paragraph (b) of subsection (1) of section 19,

he may, with the consent of the Governor in Council, seize the ship and its cargo anywhere in the arctic waters or elsewhere in the territorial sea or internal or inland waters of Canada.

Custody

(2) Subject to subsection (3) and section 24, a ship and cargo seized under subsection (1) shall be retained in the custody of the pollution prevention officer making the seizure or shall be delivered into the custody of such person as the Governor in Council directs.

Perishable goods

(3) Where all or any part of a cargo seized under subsection (1) is perishable, the pollution prevention officer or other person having custody thereof may sell the cargo or the portion thereof that is perishable, as the case may be, and the proceeds of the sale shall be paid to the Receiver General or shall be deposited in a chartered bank to the credit of the Receiver General.

Court may order forfeiture

24. (1) Where a ship is convicted of an offence under this Act, or where the owner of a ship or an owner of all or part of the cargo thereof has been convicted of an offence under paragraph (b) of subsection (1) of section 19, the convicting court may, if the ship and its cargo were seized under subsection (1) of section 23, in addition to any other penalty imposed, order that the ship and cargo or the ship or its cargo or any part thereof be forfeited, and upon the making of such order the ship and cargo or the ship or its cargo or part thereof is or are forfeited to Her Majesty in right of Canada.

Forfeiture of proceeds of sale

(2) Where any cargo or part thereof that is ordered to be forfeited under subsection (1) has been sold under subsection (3) of section 23, the proceeds of such sale are, upon the making of such order, forfeited to Her Majesty in right of Canada.

Redelivery of ship and cargo on bond

(3) Where a ship and cargo have been seized under subsection (1) of section 23 and proceedings that could result in an order that the ship and cargo be forfeited have been instituted, the court in or before which the proceedings have been instituted may, with the consent of the Governor in Council, order redelivery thereof to the person from whom they were seized upon security by bond, with two sureties, in an amount and form satisfactory to the Governor in Council, being given to Her Majesty in right of Canada.

Seized ship, etc. to be returned unless proceedings instituted

(4) Any ship and cargo seized under subsection (1) of section 23 or the proceeds realized from a sale of any perishable cargo under subsection (3) of that section shall be returned or paid to the person from whom the ship and cargo were seized

within thirty days from the seizure thereof unless, prior to the expiration of the thirty days, proceedings are instituted in respect of an offence alleged to have been committed by the ship against this Act or in respect of an offence under paragraph (*b*) of subsection (1) of section 19 alleged to have been committed by the owner of the ship or an owner of all or part of the cargo thereof.

Disposal of forfeited ship

(5) Where proceedings referred to in subsection (4) are instituted and, at the final conclusion of those proceedings, a ship and cargo or ship or cargo or part thereof is or are ordered to be forfeited, they or it may, subject to section 25, be disposed of as the Governor in Council directs.

Return of seized ship, etc. where no forfeiture ordered

(6) Where a ship and cargo have been seized under subsection (1) of section 23 and proceedings referred to in subsection (4) have been instituted, but the ship and cargo or ship or cargo or part thereof or any proceeds realized from the sale of any part of the cargo are not at the final conclusion of the proceedings ordered to be forfeited, they or it shall be returned or the proceeds shall be paid to the person from whom the ship and cargo were seized, unless there has been a conviction and a fine imposed in which case the ship and cargo or proceeds may be detained until the fine is paid, or the ship and cargo may be sold under execution in satisfaction of the fine, or the proceeds realized from a sale of the cargo or any part thereof may be applied in payment of the fine.

Protection of persons claiming interest

25. (1) The provisions of section 64A of the *Fisheries Act* apply, with such modifications as the circumstances require, in respect of any ship and cargo forfeited under this Act as though the ship and cargo were, respectively, a vessel and goods forfeited under subsection (5) of section 64 of that Act.

Idem

(2) References to "the Minister" in section 64A of the *Fisheries Act* shall, in applying that section for the purposes of this Act, be read as references to the Governor in Council and the phrase "other than a person convicted of the offence that resulted in the forfeiture or a person in whose possession the vessel, vehicle, article, goods or fish were when seized" shall be deemed to include a reference to the owner of the ship where it is the ship that is convicted of the offence that results in the forfeiture.

DELEGATION

Delegation of powers of the Governor in Council

26. (1) The Governor in Council may, by order, delegate to any member of the Queen's Privy Council for Canada designated in the order the power and authority to do any act or thing that the Governor in Council is directed or empowered to do under this Act; and upon the making of such an order, the provision or provisions of this Act that direct or empower the Governor in Council and to which the order relates shall be read as if the title of the member of the Queen's Privy Council for Canada designated in the order were substituted therein for the expression "the Governor in Council".

Limitation

(2) This section does not apply to authorise the Governor in Council to delegate any power vested in him under this Act to make regulations, to prescribe shipping safety control zones or to designate pollution prevention officers and their powers, other than pollution prevention officers with only those powers set out in subsection (1) or (2) of section 15.

DISPOSITION OF FINES

Fines to be paid to Receiver General

27. All fines imposed pursuant to this Act belong to Her Majesty in right of Canada and shall be paid to the Receiver General.

COMING INTO FORCE

Commencement

28. This Act shall come into force on a day to be fixed by proclamation.

U.S. Department of State Statement on Government of Canada's Bills on Limits of the Territorial Sea, Fisheries and Pollution, April 15, 1970*

* U.S. Dept. State Press Release No. 121; 9 I.L.M. 605 (1970).

U.S. Statement on Canada's Proposed Legislation*

DEPARTMENT OF STATE STATEMENT ON GOVERNMENT OF CANADA'S BILLS ON LIMITS OF THE TERRITORIAL SEA, FISHERIES AND POLLUTION

Last week the Canadian Government introduced in the House of Commons two bills dealing with pollution in the Arctic, fisheries and the limits of the territorial sea. The enactment and implementation of these measures would affect the exercise by the United States and other countries of the right to freedom of the seas in large areas of the high seas and would adversely affect our efforts to reach international agreement on the use of the seas.

The bills seek to establish pollution zones in Arctic waters up to 100 miles from every point of Canadian coastal territory above the 60th parallel. Within these zones, Canada would assert the right to control all shipping, to prescribe standards of vessel construction, navigation and operation, and to prohibit, if Canada deemed it necessary, the free passage of vessels in those waters. Additionally, the legislation seeks to authorize the establishment of exclusive Canadian fisheries in areas of the high seas beyond 12 miles, such as the Gulf of St. Lawrence and the Bay of Fundy, and of a 12-mile territorial sea off Canada's coasts.

International law provides no basis for these proposed unilateral extensions of jurisdictions on the high seas, and the United States can neither accept nor acquiesce in the assertion of such jurisdiction.

We are concerned that this action by Canada if not opposed by us, would be taken as precedent in other parts of the world for other unilateral infringements of the freedom of the seas. If Canada had the right to claim and exercise exclusive pollution and resources jurisdiction on the high seas, other countries could assert the right to exercise jurisdiction for other purposes, some reasonable and some not, but all equally invalid according to international law. Merchant shipping would be severely restricted, and naval mobility would be seriously jeopardized. The potential for serious international dispute and conflict is obvious.

The United States has long sought international solutions rather than national approaches to problems involving the high seas. We are working for appropriate action within the United Nations framework looking toward the conclusion of a new international treaty dealing with the limit of the territorial sea, freedom of transit through and over international straits and defining preferential fishing rights for coastal states on the high seas.

We are also seeking new international means for controlling pollution on the high seas. Last fall 47 countries, including the United States and Canada, participated in the preparation of two international conventions establishing the right of a coastal state to take certain limited anti-pollution measures against vessels on the high seas, and also imposing strict liability upon the owners of vessels responsible for pollution.

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*[Reproduced from U.S. Department of State Press Release No. 121 of April 15, 1970.

[The proposed legislation on Arctic pollution and territorial sea and fishing zones appears at page 543. The Canadian declaration concerning the compulsory jurisdiction of the International Court of Justice appears at page 598. A summary of the Canadian note of April 16, 1970, in reply to the U.S. Government, appears at page 607.]

These conventions which the United States has recently signed were concluded under U.N. auspices at Brussels. Other international approaches to control of pollution are underway at NATO and the U.N. Moreover, the United States is acutely aware of the peculiar ecological nature of the Arctic region, and the potential dangers of oil pollution in that area. The Arctic is a region important to all nations in its unique environment, its increasing significance as a world trade route and as a source of natural resources. We believe the Arctic beyond national jurisdiction should be subject to internationally agreed rules protecting its assets, both living and non-living, and have noted with pleasure the Canadian Prime Minister's public statement that Canada would be prepared to enter into multilateral efforts to develop agreed rules of environmental protection. To this end, we intend shortly to ask other interested states to join in an international conference designed to establish rules for the Arctic beyond national jurisdiction by international agreement. We would be pleased if Canada were to join us in organizing such a conference.

We regret that the Canadian Government, while not excluding these cooperative international approaches to our mutual problems involving the oceans, now proposes to take unilateral action to assert its own jurisdiction and establish its own rules pending the conclusion of international agreements satisfactory to it. For the reasons indicated earlier the United States can not accept these unilateral jurisdictional assertions and we have urged the Canadian Government to defer making them effective while cooperating in efforts promptly to reach internationally agreed solutions.

If, however, the Canadian Government is unwilling to await international agreement, we have urged that in the interest of avoiding a continuing dispute and undermining our efforts to achieve international agreement, that we submit our differences regarding pollution and exclusive fisheries jurisdiction beyond 12 miles to the International Court of Justice, the forum where disputes of this nature should rightfully be settled. Canada's action last week excluded such disputes from its acceptance of the International Court's compulsory jurisdiction. However, such action only prevents Canada from being forced into the Court. It does not preclude Canada voluntarily joining with us in submitting these disputes to the Court or an appropriate chamber of the Court.

With respect to the 12-mile limit on the territorial sea, we have publicly indicated our willingness to accept such limit, but only as part of an agreed international treaty also providing for freedom of passage through and over international straits.

The history of U.S.-Canadian relations is unique in world affairs for its closeness and cooperation. We are confident that, in this spirit, our two countries will continue to resolve our differences amicably and with mutual understanding.

* * *

Summary of Canadian Note of April 16, 1970, in reply to the U.S. Government
April 17, 1979*

* Table by the Secretary of State for Internal Affairs in the House. 9 I.L.M. 607 (1970).

Canadian Reply to the U.S. Government*

SUMMARY OF CANADIAN NOTE OF APRIL 16
TABLED BY THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS
IN THE HOUSE APRIL 17

The Canadian Government is unable to accept the views of the United States Government concerning the Arctic Waters Pollution Prevention Bill and the amendments to the Territorial Sea and Fishing Zones Act, and regrets that the United States is not prepared to accept or acquiesce in them. The Canadian Government cannot accept in particular the view that international law provides no basis for the proposed measures. For many years, large numbers of states have asserted various forms of limited jurisdiction beyond their territorial sea over marine areas adjacent to their coasts. The position of the United States Government is that the waters beyond a three-mile limit are high seas and that no state has a right to exercise exclusive pollution or resources jurisdiction on the high seas beyond a three-mile territorial sea. The Canadian Government does not accept this view which indeed the United States itself does not adhere to in practice. For example, as early as 1790, at a time when the international norm for the breadth of the territorial sea was without question three miles, the United States claimed jurisdiction up to twelve miles for customs purposes and enacted appropriate enforcement legislation, which is still in force. Since 1935 the United States has claimed the

*[Reproduced from a text provided by the Canadian Embassy at Washington, D.C.

[The U.S. statement on Canada's proposed legislation appears at page 605. The proposed legislation on Arctic pollution and territorial sea and fishing zones appears at page 543. The Canadian Prime Minister's remarks concerning the legislation appear at page 600. The Canadian declaration concerning the compulsory jurisdiction of the International Court of Justice appears at page 598.]

authority to extend customs enforcement activities as far out to sea as 62 miles, in clear contradiction of applicable international law. In 1966, the United States established exclusive fisheries jurisdiction beyond its three-mile territorial sea extending out to twelve miles from shore, and the United States has just passed analogous legislation asserting exclusive pollution control jurisdiction beyond its three-mile territorial sea and up to twelve miles. Canada reserves to itself the same rights as the United States has asserted to determine for itself how best to protect its vital interests, including in particular its national security. It is the further view of the Canadian Government that a danger to the environment of a state constitutes a threat to its security. Thus the proposed Canadian Arctic Waters Pollution Prevention Legislation constitutes a lawful extension of a limited form of jurisdiction to meet particular dangers, and is of a different order from unilateral interferences with the freedom of the high seas such as, for example, the atomic tests carried out by the United States and other states which, however necessary they may be, have appropriated to their own use vast areas of the high seas and constituted grave perils to those who would wish to utilize such areas during the period of the test blast. The most recent example of such a test by the United States and its consequences for the freedom of the high seas, as was pointed out by some governments at that time, occurred in October 1969 when the United States warned away shipping within a 50-mile radius of the test it was conducting at Amchitka Island. The proposed anti-pollution legislation, proposed fisheries protection legislation and the proposed 12-mile territorial sea consititute a threat to no state and a peril to no one.

It is a well-established principle of international law that customary international law is developed by state practice. Recent and

important instances of such state practice on the law of the sea are, for example, the Truman Proclamation of 1945 proclaiming United States jurisdiction over the continental shelf and the unilateral establishment in 1966 by the United States of exclusive fishing zones. Overwhelming evidence that international law can be and is developed by state practice lies in the fact that in 1958, at the time of the first of recent failures of the international community to reach agreement on the breadth of the territorial sea, some 14 states claimed a 12-mile territorial sea, whereas by 1970 some 45 states have established a 12-mile territorial sea and 57 states have established a territorial sea of 12 miles or more. Indeed, the three-mile territorial sea, now claimed by only 24 countries, was itself established by state practice.

The United States Government is aware of the major efforts made by Canada at the 1958 and 1960 Geneva Law of the Sea Conferences to bring about an agreed rule of law on the breadth of the territorial sea and on the breadth of contiguous zones for the exercise of various other types of limited jurisdiction. Subsequent to the failure of the 1958 and 1960 conferences Canada joined with other countries in a further extensive and vigorous multilateral campaign to bring about agreement on these questions, but these efforts failed because the United States ultimately declined to participate in them. In 1964, when Canada passed legislation establishing a nine-mile contiguous fishing zone, the United States objected to it, only to follow suit two years later, thereby confirming its acquiescence in both the substance and the manner of Canada's action. In discussions between Canada and the United States from time to time over the last ten years, Canada has made clear its serious concern over the unresolved questions of the breadth of the

territorial sea and the rights of coastal states to assert limited forms of jurisdiction beyond the territorial sea for the purpose of protecting their vital interests. With respect to the Arctic Waters Pollution Prevention Bill, the Canadian Delegation at the November 1969 Brussels I.M.C.O. Conference made strenuous efforts to bring about international agreement on effective pollution prevention measures, but the results of that conference fell short of effective protection for coastal states and the world's marine environment.

It is well known that Canada takes second place to no nation in pressing for multilateral solutions to problems of international law, and that Canada has repeatedly and consistently shown its good faith by its continuous efforts to produce agreed rules of law. The Canadian Government is, however, determined to fulfil its fundamental responsibilities to the Canadian people and to the international community for the protection of Canada's offshore marine environment and its living resources, and the proposed legislation is directed to these ends.

The Canadian Government has long been concerned about the inadequacies of international law in failing to give the necessary protection to the marine environment and to ensure the conservation of fisheries resources. The proposed anti-pollution legislation is based on the overriding right of self-defence of coastal states to protect themselves against grave threats to their environment. Traditional principles of international law concerning pollution of the sea are based in the main on ensuring freedom of navigation to shipping states, which are now engaged in the large scale carriage of oil and other potential pollutants. Such traditional concepts are of little or no relevance anywhere in the world if they can be cited as precluding action by a

coastal state to protect this environment. Such concepts are particularly irrelevant, however, to an area having the unique characteristics of the Arctic, where there is an intimate relationship between the sea, the ice and the land, and where the permanent defilement of the environment could occur and result in the destruction of whole species. It is idle, moreover, to talk of freedom of the high seas with respect to an area, large parts of which are covered with ice throughout the year, other parts of which are covered with ice most of each year, and where the local inhabitants use the frozen sea as an extension of the land to travel over it by dogsled and snowmobile far more than they can use it as water. While the Canadian Government is determined to open up the Northwest Passage to safe navigation, it cannot accept the suggestion that the Northwest Passage constitutes high seas.

In these circumstances the Canadian Government is not prepared to await the gradual development of international law, either by other states through their practice nor through the possible development of rules of law through multilateral treaties. The Canadian Government has repeatedly made clear that it is fully prepared to participate actively in multilateral action aimed at producing agreed safety and anti-pollution standards and protection of the living resources of the sea but is not prepared to abdicate in the meantime its own primary responsibilities concerning these questions.

With respect to the Bill which would authorize the establishment of a 12-mile territorial sea off Canada's coasts, the large number of coastal states now claiming a territorial sea of 12 miles or more, and the recent efforts of the United States directed towards a rule of law on the territorial sea, rights of passage and fisheries jurisdiction, provide

the best evidence of the validity of the Canadian position on this question. The Canadian Government is aware of United States interest in ensuring freedom of transit through international straits, but rejects any suggestion that the Northwest Passage is such an international strait. The widespread interest in opening up the Northwest Passage to commercial shipping and the well-known commitment of the Canadian Government to this end are themselves ample proof that it has not heretofore been possible to utilize the Northwest Passage as a route for shipping. The Northwest Passage has not attained the status of an international strait by customary usage nor has it been defined as such by conventional international law. The Canadian Government reiterates its determination to open up the Northwest Passage to safe navigation for the shipping of all nations subject, however, to necessary conditions required to protect the delicate ecological balance of the Canadian Arctic.

Canada's new reservation to its acceptance of the compulsory jurisdiction of the international court does not in any way reflect lack of confidence in the court but takes into account the limitations within which the court must operate and the deficiencies of the law which it must interpret and apply. Canada's readiness to submit to the international judicial process remains general in scope and is subject only to certain limited and clearly defined exceptions rather than to a general exception which can be defined at will so as to include any particular matter.

It is the earnest hope of the Canadian Government that it will be possible to achieve internationally accepted rules for Arctic navigation within the framework of Canada's proposed legislation. It is recognized that the interests of other states are inevitably affected in any exercise of jurisdiction over areas of the sea. These interests

have been taken into account in drafting this legislation; Canada has, for instance, provided that naval vessels and other ships owned by foreign governments may be exempted from the application of Canadian anti-pollution regulations if the ships in question substantially meet Canadian standards. Canada will give the interests of other states, including the United States, further consideration in entering into consultations with them before promulgating safety regulations under the Arctic Waters Bill.

The Canadian Government is pleased to note that the United States confirms that it is acutely aware of the peculiar ecological nature of the Arctic region and the potential dangers of oil pollution in that area. The Canadian Government agrees that the Arctic is a "region important to all nations in its unique environment, its increasing significance as a world trade route, and as a source of natural resources". The Canadian Government does not, however, agree that the Arctic as a whole should be subjected to an international regime protecting its assets both living and non-living, if that is what is proposed by the United States. Canada's sovereignty over the islands of the Arctic Archipelago is not of course, in issue, nor are Canada's sovereign rights over its northern continental shelf and the Canadian Government assumes that the United States Government is not suggesting an international regime to cover these environments (nor the land mass and adjacent submarine resources of Alaska). With respect to the waters of the Arctic Archipelago, the position of Canada has always been that these waters are regarded as Canadian. While Canada would be pleased to discuss with other stated international standards of navigation safety and environmental protection to be applicable to the waters of the Arctic, the Canadian Government cannot accept any suggestion that Canadian waters should be internationalized. The Canadian Government

notes that the United States intends shortly to ask other interested states to join in an international conference designed to establish internationally agreed rules protecting the living and non-living assets of the Arctic beyond national jurisdiction, and notes that the United States Government would be pleased to join the Canadian Government in such a conference. Before the Canadian Government can express a definitive view on this question, further information will be required as to the scope, nature and territorial application of the rules the United States proposes, since the Canadian Government obviously cannot participate in any international conference called for the purpose of discussing questions falling wholly within Canadian domestic jurisdiction. With regard to matters properly of an international character, the Prime Minister took the lead in his statement to Canadian Parliament on October 24 last, in inviting the international community to join Canada in promoting a new concept, an international legal regime to ensure to human beings the right to live in a wholesome natural environment.

With respect to the proposed legislation permitting the establishment of exclusive fishing zones, it is the considered view of the Canadian Government that neither existing customary international law nor contemporary conventional international law are adequate to prevent the continuing and increasingly rapid depletion of the living resources of the sea. The Canadian Government is aware of the proposals of the United States and other states concerning possible solutions to this problem through a multilateral approach, and intends to participate actively and constructively in any conferences to be held to consider such questions. The Government in the meantime proposes to take all measures necessary for the protection and conservation of the living resources of the sea adjacent

to Canada's coast. It is Canada's expectation that other states will take similar action since it is becoming increasingly apparent that there is no other effective way of preventing the rapid depletion of the living resources of the marine environment.

The Canadian Government is pledged to the development of the use of Canada's Arctic waters for the encouragement and expansion of Canada's northern economy and has adopted a functional and constructive approach to these questions which does not interfere with and indeed can facilitate the legitimate activities of others. The two bills reflect the determination of the Canadian Government to fulfil its responsibilities to its own people and to the international community to preserve the ecological balance of Canada and to protect and conserve the living resources of its marine environment.

The Canadian Government reaffirms its faith in the spirit of co-operation which Canada and the United States have shown throughout so much of the history of their relations and is confident that it will be possible to resolve their differences amicably and with mutual understanding.

United States Arctic Policy, National Security Decision Memorandum No. 144, December 22, 1971*

* B. Smith, United States Arctic Policy 39-40. 1 Oceans Policy Study Series, No. 1, (University of Virginia, Center for Oceans Law and Policy) (1978).

APPENDIX

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

December 22, 1971

National Security Decision Memorandum 144

TO: The Secretary of State
The Secretary of Defense
The Secretary of Interior
The Secretary of Commerce
The Secretary of Transportation
The Director, National Science Foundation
The Chairman, Council on Environmental Quality

SUBJECT: United States Arctic Policy and Arctic Policy Group

The President has reviewed the NSC Under Secretaries Committee's recommendations, conclusions and report regarding United States Arctic policy and organizational arrangements for its implementation, as forwarded by Under Secretary Irwin on August 9, 1971.

The President has decided that the United States will support the sound and rational development of the Arctic, guided by the principle of minimizing any adverse effects to the environment; will promote mutually beneficial international cooperation in the Arctic; and will at the same time provide for the protection of essential security interests in the Arctic; including preservation of the principle of freedom of the seas and superjacent airspace.

In furtherance of this policy, the President has:

Directed that the NSC Under Secretaries Committee review and forward detailed action programs, including plans and specific projects (with budgetary implications as appropriate), for increasing mutually beneficial cooperation with Arctic and other countries in areas such as exploration, scientific research, resource development and the exchange of scientific and technical data; for improving the U.S. capability to inhabit and operate in the Arctic and the understanding of the Arctic environment; and for developing a framework for international cooperation with particular attention given the Northlands Compact approach. (These action programs should be forwarded for the President's consideration not later than March 1, 1972.)

Directed that an Interagency Arctic Policy Group be established, chaired by the Department of State and including the Departments of Defense, Interior, Commerce and Transportation, the National Science Foundation, the Council on Environmental Quality

and representatives of other agencies as appropriate. (The Department of State is responsible for providing the administrative support, including staff, necessary to enable the Arctic Policy Group to carry out its responsibilities.)

The Interagency Arctic Policy Group will be responsible for overseeing the implementation of U.S. Arctic policy and reviewing and coordinating U.S. activities and programs in the Arctic, with the exception of purely domestic Arctic-related matters internal to Alaska. In discharging these responsibilities, the Arctic Policy Group will report to and coordinate with the NSC Under Secretaries Committee. Any substantive policy issues requiring the President's decision will be referred to the NSC Senior Review Group for consideration.

Approved the development of a coordinated plan for scientific research in and on the Arctic, including possible cooperative projects with Arctic and other countries, and the investigation of the feasibility of developing a comprehensive transportation system capable of meeting U.S. requirements in the Arctic, with appropriate recommendations to be made to the Arctic Policy Group.

There should be no public statements concerning U.S. Arctic policy and the other decisions set forth herein pending the President's review of the action programs requested above.

Henry A. Kissinger
[Declassified: May 18, 1977]

2. Antarctica

The Antarctic treaty, December 1, 1959*

* 12 U.S.T. 795; T.I.A.S. 4780; 402 U.N.T.S. 71.

THE ANTARCTIC TREATY

The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Recognizing that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Acknowledging the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;

Convinced that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

Convinced also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;[1]

Have agreed as follows:

Article I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, *inter alia*, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

Article II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

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[1] TS 993; 59 Stat. 1031.

ARTICLE III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:

(a) information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy and efficiency of operations;

(b) scientific personnel shall be exchanged in Antarctica between expeditions and stations;

(c) scientific observations and results from Antarctica shall be exchanged and made freely available.

2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica.

ARTICLE IV

1. Nothing contained in the present Treaty shall be interpreted as:

(a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;

(b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;

(c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.

2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

ARTICLE V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.

2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

ARTICLE VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

ARTICLE VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.

2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.

3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.

4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.

5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of

(a) all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;

(b) all stations in Antarctica occupied by its nationals; and

(c) any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

ARTICLE VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under subparagraph 1(b) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting

Party of which they are nationals in respect of all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions.

2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1(e) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

ARTICLE IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:

(a) use of Antarctica for peaceful purposes only;
(b) facilitation of scientific research in Antarctica;
(c) facilitation of international scientific cooperation in Antarctica;
(d) facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;
(e) questions relating to the exercise of jurisdiction in Antarctica;
(f) preservation and conservation of living resources in Antarctica.

2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such time as that Contracting Party demonstrates its interest in Antarctica by conducting substantial scientific research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.

3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.

4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.

5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty

whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

ARTICLE X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

ARTICLE XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

ARTICLE XII

1. (a) The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it.

(b) Such modification or amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provisions of subparagraph 1(a) of this Article shall be deemed to have withdrawn from the pres nt Treaty on the date of the expiration of such period.

2. (a) If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

(b) Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary Government to all the Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article.

(c) If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

Article XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.

4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instrument of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

Article XIV

The present Treaty, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

Convention on the Conservation of Antarctic Marine Living Resources, May 20, 1980*

* 19 I.L.M. 841.

CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES

The Contracting Parties,

RECOGNISING the importance of safeguarding the environment and protecting the integrity of the ecosystem of the seas surrounding Antarctica;

NOTING the concentration of marine living resources found in Antarctic waters and the increased interest in the possibilities offered by the utilization of these resources as a source of protein;

CONSCIOUS of the urgency of ensuring the conservation of Antarctic marine living resources;

CONSIDERING that it is essential to increase knowledge of the Antarctic marine ecosystem and its components so as to be able to base decisions on harvesting on sound scientific information;

BELIEVING that the conservation of Antarctic marine living resources calls for international co-operation with due regard

for the provisions of the Antarctic Treaty and with the active involvement of all States engaged in research or harvesting activities in Antarctic waters;

RECOGNISING the prime responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the Antarctic environment and, in particular, their responsibilities under Article IX, paragraph 1(f) of the Antarctic Treaty in respect of the preservation and conservation of living resources in Antarctica;

RECALLING the action already taken by the Antarctic Treaty Consultative Parties including in particular the Agreed Measures for the Conservation of Antarctic Fauna and Flora, as well as the provisions of the Convention for the Conservation of Antarctic Seals;

BEARING in mind the concern regarding the conservation of Antarctic marine living resources expressed by the Consultative Parties at the Ninth Consultative Meeting of the Antarctic Treaty and the importance of the provisions of Recommendation IX-2 which led to the establishment of the present Convention;

BELIEVING that it is in the interest of all mankind to preserve the waters surrounding the Antarctic continent for peaceful purposes only and to prevent their becoming the scene or object of international discord;

RECOGNISING, in the light of the foregoing, that it is desirable to establish suitable machinery for recommending, promoting, deciding upon and co-ordinating the measures and scientific studies needed to ensure the conservation of Antarctic marine living organisms;

HAVE AGREED as follows:

ARTICLE 1

1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.

4. The Antarctic Convergence shall be deemed to be a line joining the following points along parallels of latitude and meridians of longitude:

50°S, 0°; 50°S, 30°E; 45°S, 30°E; 45°S, 80°E; 55°S, 80°E; 55°S, 150°E; 60°S, 150°E; 60°S, 50°W; 50°S, 50°W; 50°S, 0°.

ARTICLE II

1. The objective of this Convention is the conservation of Antarctic marine living resources.

2. For the purposes of this Convention, the term "conservation" includes rational use.

3. Any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles of conservation:

   (a) prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment;

   (b) maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to the levels defined in sub-paragraph (a) above;

   and

   (c) prevention of changes or minimization of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources.

ARTICLE III

The Contracting Parties, whether or not they are Parties to the Antarctic Treaty, agree that they will not engage in any activities in the Antarctic Treaty area contrary to the

principles and purposes of that Treaty and that, in their relations with each other, they are bound by the obligations contained in Articles I and V of the Antarctic Treaty. [*]

ARTICLE IV

1. With respect to the Antarctic Treaty area, all Contracting Parties, whether or not they are Parties to the Antarctic Treaty, are bound by Articles IV and VI of the Antarctic Treaty in their relations with each other. [*]

2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:

   (a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;

   (b) be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal state jurisdiction under international law within the area to which this Convention applies;

   (c) be interpreted as prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any such right, claim or basis of claim;

   (d) affect the provision of Article IV, paragraph 2, of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force. [*]

ARTICLE V

1. The Contracting Parties which are not Parties to the Antarctic Treaty acknowledge the special obligations and responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the environment of the Antarctic Treaty area.

2. The Contracting Parties which are not Parties to the Antarctic Treaty agree that, in their activities in the Antarctic Treaty area, they will observe as and when appropriate the Agreed Measures for the Conservation of Antarctic Fauna and Flora and such other measures as have

*[See I.L.M. page 860.]

been recommended by the Antarctic Treaty Consultative Parties in fulfilment of their responsibility for the protection of the Antarctic environment from all forms of harmful human interference.

3. For the purposes of this Convention, "Antarctic Treaty Consultative Parties" means the Contracting Parties to the Antarctic Treaty whose Representatives participate in meetings under Article IX of the Antarctic Treaty.

ARTICLE VI

Nothing in this Convention shall derogate from the rights and obligations of Contracting Parties under the International Convention for the Regulation of Whaling and the Convention for the Conservation of Antarctic Seals.

ARTICLE VII

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Commission").

2. Membership in the Commission shall be as follows:

   (a) each Contracting Party which participated in the meeting at which this Convention was adopted shall be a Member of the Commission;

   (b) each State Party which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as that acceding party is engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies;

   (c) each regional economic integration organization which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as its States Members are so entitled;

   (d) a Contracting Party seeking to participate in the work of the Commission pursuant to sub-paragraphs (b) and (c) above shall notify the Depositary of the basis upon which it seeks to become a Member of the Commission and of its willingness to accept conservation measures in force. The Depositary shall communicate to each Member of the Commission such notification and accompanying information. Within two months of receipt of such communication from the Depositary, any Member of the Commission may request that a special meeting of

*[See I.L.M. page 861.]

the Commission be held to consider the matter. Upon receipt of such request, the Depositary shall call such a meeting. If there is no request for a meeting, the Contracting Party submitting the notification shall be deemed to have satisfied the requirements for Commission Membership.

3. Each Member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisers.

ARTICLE VIII

The Commission shall have legal personality and shall enjoy in the territory of each of the States Parties such legal capacity as may be necessary to perform its function and achieve the purposes of this Convention. The privileges and immunities to be enjoyed by the Commission and its staff in the territory of a State Party shall be determined by agreement between the Commission and the State Party concerned.

ARTICLE IX

1. The function of the Commission shall be to give effect to the objective and principles set out in Article II of this Convention. To this end, it shall:

   (a) facilitate research into and comprehensive studies of Antarctic marine living resources and of the Antarctic marine ecosystem;

   (b) compile data on the status of and changes in population of Antarctic marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;

   (c) ensure the acquisition of catch and effort statistics on harvested populations;

   (d) analyse, disseminate and publish the information referred to in sub-paragraphs (b) and (c) above and the reports of the Scientific Committee;

   (e) identify conservation needs and analyse the effectiveness of conservation measures;

   (f) formulate, adopt and revise conservation measures on the basis of the best scientific evidence available, subject to the provisions of paragraph 5 of this Article;

   (g) implement the system of observation and inspection established under Article XXIV of this Convention;

(h) carry out such other activities as are necessary to fulfil the objective of this Convention.

2. The conservation measures referred to in paragraph 1 (f) above include the following:

(a) the designation of the quantity of any species which may be harvested in the area to which this Convention applies;

(b) the designation of regions and sub-regions based on the distribution of populations of Antarctic marine living resources;

(c) the designation of the quantity which may be harvested from the populations of regions and sub-regions;

(d) the designation of protected species;

(e) the designation of the size, age and, as appropriate, sex of species which may be harvested;

(f) the designation of open and closed seasons for harvesting;

(g) the designation of the opening and closing of areas, regions or sub-regions for purposes of scientific study or conservation, including special areas for protection and scientific study;

(h) regulation of the effort employed and methods of harvesting, including fishing gear, with a view, inter alia, to avoiding undue concentration of harvesting in any region or sub-region;

(i) the taking of such other conservation measures as the Commission considers necessary for the fulfilment of the objective of this Convention, including measures concerning the effects of harvesting and associated activities on components of the marine ecosystem other than the harvested populations.

3. The Commission shall publish and maintain a record of all conservation measures in force.

4. In exercising its functions under paragraph 1 above, the Commission shall take full account of the recommendations and advice of the Scientific Committee.

5. The Commission shall take full account of any relevant measures or regulations established or recommended by the Consultative Meetings pursuant to Article IX of the Antarctic Treaty or by existing fisheries commissions responsible for species which may enter the area to which this Convention applies, in order that there shall be no inconsistency between the rights and obligations of a Contracting Party under such regulations or measures and conservation measures which may be adopted by the Commission. [*]

*[For Article IX of the Antarctic Treaty see I.L.M. page 861.]

6. Conservation measures adopted by the Commission in accordance with this Convention shall be implemented by Members of the Commission in the following manner:

(a) the Commission shall notify conservation measures to all Members of the Commission;

(b) conservation measures shall become binding upon all Members of the Commission 180 days after such notification, except as provided in sub-paragraphs (c) and (d) below;

(c) if a Member of the Commission, within ninety days following the notification specified in sub-paragraph (a), notifies the Commission that it is unable to accept the conservation measure, in whole or in part, the measure shall not, to the extent stated, be binding upon that Member of the Commission;

(d) in the event that any Member of the Commission invokes the procedure set forth in sub-paragraph (c) above, the Commission shall meet at the request of any Member of the Commission to review the conservation measure. At the time of such meeting and within thirty days following the meeting, any Member of the Commission shall have the right to declare that it is no longer able to accept the conservation measure, in which case the Member shall no longer be bound by such measure.

ARTICLE X

1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention.

2. The Commission shall draw the attention of all Contracting Parties to any activity which, in the opinion of the Commission, affects the implementation by a Contracting Party of the objective of this Convention or the compliance by that Contracting Party with its obligations under this Convention.

ARTICLE XI

The Commission shall seek to cooperate with Contracting Parties which may exercise jurisdiction in marine areas adjacent to the area to which this Convention applies in respect of the conservation of any stock or stocks of associated species which occur both within those areas

and the area to which this Convention applies, with a view to harmonizing the conservation measures adopted in respect of such stocks.

ARTICLE XII

1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.

2. Decisions on matters other than those referred to in paragraph 1 above shall be taken by a simple majority of the Members of the Commission present and voting.

3. In Commission consideration of any item requiring a decision, it shall be made clear whether a regional economic integration organization will participate in the taking of the decision and, if so, whether any of its member States will also participate. The number of Contracting Parties so participating shall not exceed the number of member States of the regional economic integration organization which are Members of the Commission.

4. In the taking of decisions pursuant to this Article, a regional economic integration organization shall have only one vote.

ARTICLE XIII

1. The headquarters of the Commission shall be established at Hobart, Tasmania, Australia.

2. The Commission shall hold a regular annual meeting. Other meetings shall also be held at the request of one-third of its members and as otherwise provided in this Convention. The first meeting of the Commission shall be held within three months of the entry into force of this Convention, provided that among the Contracting Parties there are at least two States conducting harvesting activities within the area to which this Convention applies. The first meeting shall, in any event, be held within one year of the entry into force of this Convention. The Depositary shall consult with the signatory States regarding the first Commission meeting, taking into account that a broad representation of such States is necessary for the effective operation of the Commission.

3. The Depositary shall convene the first meeting of the Commission at the headquarters of the Commission. Thereafter, meetings of the Commission shall be held at its headquarters, unless it decides otherwise.

4. The Commission shall elect from among its members a Chairman and Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election for one additional term. The first Chairman shall, however, be elected for an initial term of three years. The Chairman and Vice-Chairman shall not be representatives of the same Contracting Party.

5. The Commission shall adopt and amend as necessary the rules of procedure for the conduct of its meetings, except with respect to the matters dealt with in Article XII of this Convention.

6. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XIV

1. The Contracting Parties hereby establish the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Scientific Committee") which shall be a consultative body to the Commission. The Scientific Committee shall normally meet at the headquarters of the Commission unless the Scientific Committee decides otherwise.

2. Each Member of the Commission shall be a member of the Scientific Committee and shall appoint a representative with suitable scientific qualifications who may be accompanied by other experts and advisers.

3. The Scientific Committee may seek the advice of other scientists and experts as may be required on an ad hoc basis.

ARTICLE XV

1. The Scientific Committee shall provide a forum for consultation and cooperation concerning the collection, study and exchange of information with respect to the marine living resources to which this Convention applies. It shall encourage and promote cooperation in the field of scientific research in order to extend knowledge of the marine living resources of the Antarctic marine ecosystem.

2. The Scientific Committee shall conduct such activities as the Commission may direct in pursuance of the objective of this Convention and shall:

   (a) establish criteria and methods to be used for determinations concerning the conservation measures referred to in Article IX of this Convention;

   (b) regularly assess the status and trends of the populations of Antarctic marine living resources;

(c) analyse data concerning the direct and indirect effects of harvesting on the populations of Antarctic marine living resources;

(d) assess the effects of proposed changes in the methods or levels of harvesting and proposed conservation measures;

(e) transmit assessments, analyses, reports and recommendations to the Commission as requested or on its own initiative regarding measures and research to implement the objective of this Convention;

(f) formulate proposals for the conduct of international and national programs of research into Antarctic marine living resources.

3. In carrying out its functions, the Scientific Committee shall have regard to the work of other relevant technical and scientific organizations and to the scientific activities conducted within the framework of the Antarctic Treaty.

ARTICLE XVI

1. The first meeting of the Scientific Committee shall be held within three months of the first meeting of the Commission. The Scientific Committee shall meet thereafter as often as may be necessary to fulfil its functions.

2. The Scientific Committee shall adopt and amend as necessary its rules of procedure. The rules and any amendments thereto shall be approved by the Commission. The rules shall include procedures for the presentation of minority reports.

3. The Scientific Committee may establish, with the approval of the Commission, such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XVII

1. The Commission shall appoint an Executive Secretary to serve the Commission and Scientific Committee according to such procedures and on such terms and conditions as the Commission may determine. His term of office shall be for four years and he shall be eligible for re-appointment.

2. The Commission shall authorize such staff establishment·

for the Secretariat as may be necessary and the Executive Secretary shall appoint, direct and supervise such staff according to such rules and procedures and on such terms and conditions as the Commission may determine.

3. The Executive Secretary and Secretariat shall perform the functions entrusted to them by the Commission.

ARTICLE XVIII

The official languages of the Commission and of the Scientific Committee shall be English, French, Russian and Spanish.

ARTICLE XIX

1. At each annual meeting, the Commission shall adopt by consensus its budget and the budget of the Scientific Committee.

2. A draft budget for the Commission and the Scientific Committee and any subsidiary bodies shall be prepared by the Executive Secretary and submitted to the Members of the Commission at least sixty days before the annual meeting of the Commission.

3. Each Member of the Commission shall contribute to the budget. Until the expiration of five years after the entry into force of this Convention, the contribution of each Member of the Commission shall be equal. Thereafter the contribution shall be determined in accordance with two criteria: the amount harvested and an equal sharing among all Members of the Commission. The Commission shall determine by consensus the proportion in which these two criteria shall apply.

4. The financial activities of the Commission and Scientific Committee shall be conducted in accordance with financial regulations adopted by the Commission and shall be subject to an annual audit by external auditors selected by the Commission.

5. Each Member of the Commission shall meet its own expenses arising from attendance at meetings of the Commission and of the Scientific Committee.

6. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

ARTICLE XX

1. The Members of the Commission shall, to the greatest extent possible, provide annually to the Commission and to the Scientific Committee such statistical, biological and other data and information as the Commission and Scientific Committee may require in the exercise of their functions.

2. The Members of the Commission shall provide, in the manner and at such intervals as may be prescribed, information about their harvesting activities, including fishing areas and vessels, so as to enable reliable catch and effort statistics to be compiled.

3. The Members of the Commission shall provide to the Commission at such intervals as may be prescribed information on steps taken to implement the conservation measures adopted by the Commission.

4. The Members of the Commission agree that in any of their harvesting activities, advantage shall be taken of opportunities to collect data needed to assess the impact of harvesting.

ARTICLE XXI

1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article IX of this Convention.

2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1 above, including the imposition of sanctions for any violation.

ARTICLE XXII

1. Each Contracting Party undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to the objective of this Convention.

2. Each Contracting Party shall notify the Commission of any such activity which comes to its attention.

ARTICLE XXIII

1. The Commission and the Scientific Committee shall co-operate with the Antarctic Treaty Consultative Parties on matters falling within the competence of the latter.

2. The Commission and the Scientific Committee shall co-operate, as appropriate, with the Food and Agriculture Organisation of the United Nations and with other Specialised Agencies.

3. The Commission and the Scientific Committee shall seek to develop co-operative working relationships, as appropriate, with inter-governmental and non-governmental organizations which could contribute to their work, including the Scientific Committee on Antarctic Research, the Scientific Committee on Oceanic Research and the International Whaling Commission.

4. The Commission may enter into agreements with the organizations referred to in this Article and with other organizations as may be appropriate. The Commission and the Scientific Committee may invite such organizations to send observers to their meetings and to meetings of their subsidiary bodies.

ARTICLE XXIV

1. In order to promote the objective and ensure observance of the provisions of this Convention, the Contracting Parties agree that a system of observation and inspection shall be established.

2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:

   (a) Contracting Parties shall cooperate with each other to ensure the effective implementation of the system of observation and inspection, taking account of the existing international practice. This system shall include, inter alia, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag state prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XXI of this Convention;

(b) in order to verify compliance with measures adopted under this Convention, observation and inspection shall be carried out on board vessels engaged in scientific research or harvesting of marine living resources in the area to which this Convention applies, through observers and inspectors designated by the Members of the Commission and operating under terms and conditions to be established by the Commission;

(c) designated observers and inspectors shall remain subject to the jurisdiction of the Contracting Party of which they are nationals. They shall report to the Member of the Commission by which they have been designated which in turn shall report to the Commission.

3. Pending the establishment of the system of observation and inspection, the Members of the Commission shall seek to establish interim arrangements to designate observers and inspectors and such designated observers and inspectors shall be entitled to carry out inspections in accordance with the principles set out in paragraph 2 above.

ARTICLE XXV

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent in each case of all Parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court or to arbitration shall not absolve Parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 above.

3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention. [*]

ARTICLE XXVI

1. This Convention shall be open for signature at Canberra from 1 August to 31 December 1980 by the States

*[See I.L.M. page 858.]

participating in the Conference on the Conservation of Antarctic Marine Living Resources held at Canberra from 7 to 20 May 1980.

2. The States which so sign will be the original signatory States of the Convention.

ARTICLE XXVII

1. This Convention is subject to ratification, acceptance or approval by signatory States.

2. Instruments of ratification, acceptance or approval shall be deposited with the Government of Australia, hereby designated as the Depositary.

ARTICLE XXVIII

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the eighth instrument of ratification, acceptance or approval by States referred to in paragraph 1 of Article XXVI of this Convention.

2. With respect to each State or regional economic integration organization which subsequent to the date of entry into force of this Convention deposits an instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following such deposit.

ARTICLE XXIX

1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.

2. This Convention shall be open for accession by regional economic integration organizations constituted by sovereign States which include among their members one or more States Members of the Commission and to which the States members of the organization have transferred, in whole or in part, competences with regard to the matters covered by this Convention. The accession of such regional economic integration organizations shall be the subject of consultations among Members of the Commission.

ARTICLE XXX

1. This Convention may be amended at any time.

2. If one-third of the Members of the Commission request a meeting to discuss a proposed amendment the Depositary shall call such a meeting.

3. An amendment shall enter into force when the Depositary has received instruments of ratification, acceptance or approval thereof from all the Members of the Commission.

4. Such amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification, acceptance or approval by it has been received by the Depositary. Any such Contracting Party from which no such notice has been received within a period of one year from the date of entry into force of the amendment in accordance with paragraph 3 above shall be deemed to have withdrawn from this Convention.

ARTICLE XXXI

1. Any Contracting Party may withdraw from this Convention on 30 June of any year, by giving written notice not later than 1 January of the same year to the Depositary, which, upon receipt of such a notice, shall communicate it forthwith to the other Contracting Parties.

2. Any other Contracting Party may, within sixty days of the receipt of a copy of such a notice from the Depositary, give written notice of withdrawal to the Depositary in which case the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

3. Withdrawal from this Convention by any Member of the Commission shall not affect its financial obligations under this Convention.

ARTICLE XXXII

The Depositary shall notify all Contracting Parties of the following:

(a) signatures of this Convention and the deposit of instruments of ratification, acceptance, approval or accession;

(b) the date of entry into force of this Convention and of any amendment thereto.

ARTICLE XXXIII

1. This Convention, of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Government of Australia which shall transmit duly certified copies thereof to all signatory and acceding Parties.

2. This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

Drawn up at Canberra this twentieth day of May 1980.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention.

ANNEX FOR AN ARBITRAL TRIBUNAL

The arbitral tribunal referred to in paragraph 3 of Article XXV shall be composed of three arbitrators who shall be appointed as follows:

The Party commencing proceedings shall communicate the name of an arbitrator to the other Party which, in turn, within a period of forty days following such notification, shall communicate the name of the second arbitrator. The Parties shall, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either Party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal.

If the second arbitrator has not been appointed within the prescribed period, or if the Parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either Party, by the Secretary-General of the Permanent Court of Arbitration, from among persons of international standing not having the nationality of a State which is a Party to this Convention.

The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.

The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.

Any Contracting Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.

The award of the arbitral tribunal shall be final and binding on all Parties to the dispute and on any Party which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the Parties to the dispute or of any intervening Party.

Unless the arbitral tribunal determines 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.

Question of Antarctica: Report of the U.N. Secretary-General, October 31, 1984*

* Study requested under General Assembly Resolution 38/77, Report of the U.N. Secretary-General, at 63, U.N. Doc. A/39/583 (Part I) (1984).

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Agenda item 66

QUESTION OF ANTARCTICA

Study requested under General Assembly resolution 38/77

Report of the Secretary-General

2. Antarctic mineral resources

268. The hidden mineral wealth of Antarctica has been a subject of interest for many years. It has still to be proved that there are mineral resources in Antarctica worth exploiting, and at the present time prospects for developing such resources appear to be remote. 27/ However, in recent years, as a result of the scarcity of global resources coupled with technological advancements in resource exploration and exploitation, interest in the economic potential of the Antarctic region has increased substantially. As a result, concern for and tensions over the fate of the world's last unexploited continent are rising rapidly.

269. One of the major problems regarding exploration and exploitation of Antarctic mineral resources is that the environmental hazards attached to the use of these resources may be very serious. The Antarctic has a critical influence on oceanic and atmospheric circulation and thus on global climate. At the same time, Antarctic ecosystems are extremely vulnerable to disturbance. For example, a huge spill of crude oil altering the rate of formation and degradation of sea ice could conceivably affect planetary albedo (reflectivity), 28/ with global climatic implications. In addition, the severity of local conditions, such as the cold and the presence of ice and icebergs, increases the likelihood of accidents and would complicate remedial measures. 29/ At present only a number of preliminary studies have been conducted on the environmental impact of mineral resource exploration and exploitation in Antarctica but they indicate that measures for protection of the Antarctic environment should be worked out prior to any commercial exploration for or exploitation of mineral resources in Antarctica, should such activities ever begin there. 30/

270. The Antarctic mineral resource issue revives an old problem of claims for territorial sovereignty in Antarctica and non-recognition of such claims, because claimant States assert ownership over resources in their claims, while non-claimant States argue for freedom of access. 31/ The possibility of unilateral actions by both sides, and therefore of conflicts, is quite real and should not be discounted. In this respect, the prospect of the use of Antarctic mineral resources raises the question of the need for elaboration of an international régime for management of the exploration and exploitation of potential Antarctic mineral resources.

271. It should be noted that in light of the sovereignty issue it could prove to be much more difficult, in comparison with marine living resources, to approach the question of management of mineral resources, since they are non-renewable and are fixed in location. It should also be remembered that the development of mineral resources will involve problems and require regulation and control of a scale and nature different from the measures required in regard to marine living resources. 32/

272. Problems and conflicts raised by the emerging interest in the economic potential of Antarctic mineral resources revolve mainly around one issue, namely, how Antarctic mineral resources should be managed. There are two main approaches to the consideration of this issue, which reflect also to a certain extent, differences in attitudes towards management of resources.

273. The supporters of one approach insist on the discussion of the Antarctic mineral resource issue in a global international forum, preferably established by the United Nations. They consider the Antarctic Treaty mechanism too restrictive for the purposes of such discussions. As their objective, they claim to ensure that the exploration and exploitation of mineral resources should be carried out for the benefit of all mankind. 33/

274. Others, while also convinced of the need for an open international approach, favour the discussion of the questions of the management of Antarctic mineral resources within the framework of the Antarctic Treaty, which is, in their opinion, particularly designed for such discussions and can assure their meaningful and responsible character. They hold the view that, in such considerations, one should not ignore the realities of the Antarctic Treaty, including, inter alia, the provisions of article IV of the Treaty which puts at rest the sovereignty issue, and the long presence in Antarctica of certain countries which have invested large resources as well as the efforts and talents of their people in the scientific investigation and development of this continent. 34/

275. Both approaches are reflected in the debates on the Antarctic issue at the thirty-eighth session of the General Assembly. A summary of those debates is given in section C of chapter II of the present study. Below are listed some of the statements or summaries of such statements made by the advocates of these approaches prior to the thirty-eighth session. They may be helpful in a better understanding of the opinions advanced.

276. It can be assumed 35/ that initiators of the discussion of the Antarctic mineral resource management issue in a wide international forum were inspired by the adoption, on 17 December 1970, by the General Assembly of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction and by the deliberations at the United Nations Conference on the Law of the Sea. The views set out below, some of which were made in a broader context, are nevertheless included because they are relevant to the mineral resource issue.

277. In 1975, in a speech before the General Assembly, Shirley Amerasinghe, who was then the President of the United Nations Conference on the Law of the Sea, stated:

> "There are still areas of this planet where opportunities remain for constructive and peaceful co-operation on the part of the international community for the common good of all rather than for the benefit of a few. Such an area is the Antarctic continent. ... there can be no doubt that there are vast possibilities for a new initiative that would rebound to the benefit of all mankind. Antarctica is an area where the now widely accepted ideas and concepts relating to international economic co-operation, with their special stress on the principle of equitable sharing of the world's resources, can find ample scope for appliction, given the co-operation and good-will of those who have so far been active in that area" (A/PV.2380, pp. 13-15).

278. Christopher Pinto, the delegate of Sri Lanka to the United Nations Conference on the Law of the Sea, vigorously advocated in his statement in 1977 to a press briefing seminar in London that Antarctica's resources should be made subject to a

régime of rational management and utilization to secure optimum benefits for mankind as a whole and, in particular, for the developing countries, in accordance with appropriate global international arrangements and within the framework of the new international economic order. 36/

279. In 1979, Alvaro de Soto, the delegate of Peru to the Law of the Sea Conference and one of the co-ordinators of the Group of 77 at that Conference, warned that "a comprehensive political debate on the question of Antarctica is inevitable and it may well be desirable". Speaking at a press briefing seminar in Washington, he said that "the temptation to apply to Antarctica the same principles which are the basis for the régime of the sea-bed is very great, and some have not been able to resist it. ... Certainly there is no such thing as a perfect analogy. The sea-bed principles would probably require some adaptation in order to be applied to Antarctica". 37/

280. In 1982, the Prime Minister of Malaysia, Dr. Mahathir bin Mohamad, while congratulating the General Assembly on the successful conclusion of the United Nations Conference on the Law of the Sea, said that it was time now for the United Nations to focus its attention on the uninhabited lands of Antarctica. He added that, like the sea-beds, these uninhabited lands belong to the international community and "the United Nations must convene a meeting in order to define the problem of these uninhabited lands, whether claimed or unclaimed, and to determine the rights of all nations to these lands" (A/37/PV.10, p. 18).

281. The aforementioned approach is opposed by those who consider it questionable that the legal situation of Antarctica is really analogous to the deep sea-bed. They emphasize that, contrary to the deep sea-bed area, a legal system already exists with respect to the Antarctic area. 38/

282. Speaking in a personal capacity in 1977 at a press briefing seminar, Mr. Leigh Ratiner, administrator in the United States Ocean Mining Administration, stressed:

> "Antarctica is not a no-man's-land, and a foundation upon which to build an alternative regime already exists and cannot in truth be ignored. For a very long time, this continent has been a sphere of political activity. Nations have, through forethought and initiative, developed substantial vested interests in Antarctica's future. ... The political difference between the deep seabed and Antarctica and between the moon and Antarctica is stated quite simply - territorial sovereignty, and a sovereignty claim, be it valid or dubious under international law, is nonetheless the grist of the international law mill." 39/

283. Mr. Fernando Zegers Santa Cruz, former head of the delegation of Chile to the Law of the Sea Conference in his 1978 article on "The Antarctic System and the Utilization of Resources" strongly argues against the comparison between Antarctica and, as he put it, other "human frontiers such as for example the ocean floor". While recognizing the existence of certain elements in common, he states that vast differences overshadow any possible similarities. He continues, saying that

"Antarctica is not a territory without legal norms, remote to man and res nullius. To the contrary, there exists a real Antarctic system, which integrates perfectly with the general international system, conforms to the principles and objectives of the United Nations and has proven its efficiency in both time and place. Consequently it is through the Antarctic system, and in close cooperation with it, that the solution to the question of utilization of the resources of the area should be found." 40/

284. It is also argued that the common heritage concept cannot be applied to Antarctica by analogy, because the United Nations has not declared this concept to be a universal principle applicable to all spaces beyond generally recognized national sovereignty but has restricted it to two particular instances: the deep sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources; and the moon and its resources. 41/

285. At the interdisciplinary symposium entitled Antarctic Challenge: Conflicting Interests, Cooperation, Environmental Protection, Economic Development, held at Kiel, Federal Republic of Germany in 1983, the opponents of the consideration of the mineral resource issue within the framework of the Antarctic Treaty were criticized for basing their approach solely on the suggestion of sharing profit and benefit while neglecting the consideration of burden and responsibility sharing. According to those views, they have not envisaged the need for a delicate balance between responsibilities and obligations, on one side, and rights, on the other. It was commented, in that regard, that some of those who most strongly advocated the possibilities of Antarctica as an area for international co-operation for the benefit of all mankind, rather than for a few rich States, were reluctant to use the opportunity to join the Antarctic Treaty and to take part in the research activities, to the extent that they were capable and willing within the Treaty's framework, for the benefit of all mankind. 42/

286. The Antarctic Treaty makes no special reference to Antarctic mineral resources. However, the Consultative Parties have recorded their view that it would be ironic not to allow them to address the question of exploration and exploitation of these resources once it became an urgent issue of public concern.

287. The specific character of the Antarctic Treaty and the system established by it are mentioned by some authors as one of the reasons why the claimant States seem more prepared to compromise in favour of a joint solution on the mineral resource issue within the framework of the Treaty. 43/

288. The issue of commercial activities related to exploitation of Antarctic resources was brought up during negotiation of the Antarctic Treaty in 1958-1959, but it became apparent that, at that time, the States concerned were not willing to accept provisions regulating such activities. 44/

289. In 1959, no urgent need was felt for negotiations on the mineral resource issue. Therefore, it was considered preferable to avoid them for fear that disagreement on the sovereignty problem might halt the conclusion of the Antarctic Treaty. 44/ However, with the passage of time, the Consultative Parties concluded that the balance established by the Antarctic Treaty and implementation of some of

its principles, such as freedom of scientific research and protection of the environment, could be threatened by possible unilateral commercial development of Antarctic mineral resources by some States. 45/ Thus, they felt that the need had emerged to take measures in order to assure implementation of the Antarctic Treaty principles and to meet the requirement of the Treaty that Antarctica should not become the scene or object of international discord.

290. The question of Antarctic mineral resources was first brought up informally in 1970, at the Sixth Consultative Meeting, held in Tokyo, where several representatives voiced concern about inquiries regarding Antarctic minerals that their Governments had received from private firms. 46/

291. Two years later, at the Seventh Consultative Meeting, its participants, "noting the technological developments in polar mineral exploration and the increasing interest in the possibility of there being exploitable minerals in the Antarctic Treaty area", decided to include in the agenda of that meeting the issue "Antarctic resources - effects of mineral exploitation". The Consultative Parties acted on the agreed assumption "that mineral exploration is likely to raise problems of an environmental nature and that the Consultative Parties should assume responsibility for the protection of the environment and the wise use of resources" (recommendation VII-6).

292. The decision of the Seventh Consultative Meeting on the mineral resource issue, although a very general one, was a consensus between both claimant and non-claimant States to act collectively and address jointly the mineral resource issue within the framework of the system established by the Antarctic Treaty.

293. At the Eighth Consultative Meeting, held at Oslo in 1975, the Consultative Parties once again pointed out that mineral resource exploration and exploitation could adversely affect the unique environment of Antarctica and of other ecosystems dependent on the Antarctic environment, and reaffirmed that they bore a special responsibility for environmental protection in the Antarctic Treaty area. Since available scientific information on the possible impact of mineral resource exploration or exploitation on the environment of the Treaty area, if that was to occur there, was completely inadequate, SCAR was invited to prepare a study in that respect (recommendation VIII-14).

294. In that decision, the Consultative Parties emphasized that a close link between the operation of the Antarctic Treaty and an accommodation on the mineral issue should serve as a key-stone for any resolution of the Antarctic mineral resource issue. They stressed their intent "to seek to develop an approach to the problems raised by the possible presence of valuable mineral resources in the Antarctic Treaty area, bearing in mind the principles and purposes of the Antarctic Treaty" (preamble, recommendation VIII-14).

295. The Consultative Parties came to the joint conviction that there was a need to refrain from actions of commercial exploration and exploitation while they would also seek timely agreed solutions to the problems raised by the possible presence of valuable mineral resources in Antarctica. That conviction was expressed in the preamble of recommendation VIII-14 and in its report.

296. At the Ninth Consultative Meeting, held in London in 1977, the question of mineral resources was one of the major subjects. The decision taken by the Meeting on the issue (recommendation IX-1) reflects the substantial progress achieved by the Consultative Parties on fundamental issues relating to mineral resource development.

297. First, the Consultative Parties emphasized that the framework established by the Antarctic Treaty had proved effective in promoting international harmony in furtherance of the purposes and principles of the United Nations Charter, in ensuring the protection of the Antarctic environment and in promoting freedom of scientific research in Antarctica. They thus reiterated that Consultative Meetings could and should serve as a proper forum for consideration of the mineral resource issue.

298. Second, they gave an explicit definition of what they considered to be their responsibility under the Antarctic Treaty with respect to mineral resource development, in stating that "the special responsibilities of Consultative Parties are to ensure that any activities in Antarctica, including commercial exploration and exploitation in the future, should they occur, should not become the cause of international discord, of danger to the unique Antarctic environment, of disruption to scientific investigation, or be otherwise contrary to the principles or purposes of the Antarctic Treaty" (preamble, recommendation IX-1).

299. Third, the Consultative Parties established a set of principles on which to base the future régime for the Antarctic mineral resources. They endorsed the four following principles elaborated in 1976 in Paris at the meeting held in preparation for the Ninth Consultative Meeting:

"(i) the Consultative Parties will continue to play an active and responsible role in dealing with the question of the mineral resources of Antarctica;

"(ii) the Antarctic Treaty must be maintained in its entirety;

"(iii) protection of the unique Antarctic environment and of its dependent ecosystems should be a basic consideration;

"(iv) the Consultative Parties, in dealing with the question of mineral resources in Antarctica, should not prejudice the interests of all mankind in Antarctica" (recommendation IX-1, para. 4).

300. The aforementioned basic elements of the future régime were supplemented in the decision by one more principle assuring "that the provisions of Article IV of the Antarctic Treaty shall not be affected by the régime" and "that the principles embodied in Article IV of the Antarctic Treaty are safeguarded in application to the area covered by the Antarctic Treaty" (recommendation IX-1, para. 5).

301. Fourth, the Consultative Meeting transformed the appeal adopted at the previous meeting, of the need for restraint in commercial development of Antarctic mineral resources while a timely agreed solution was being sought, into a direct legal obligation on the Consultative Parties. The participants of the Ninth Consultative Meeting agreed to "urge their nationals and other States to refrain

from all exploration and exploitation of Antarctic mineral resources while making progress towards the timely adoption of an agreed régime concerning Antarctic mineral resource activities" and by this to "endeavour to ensure that, pending the timely adoption of agreed solutions pertaining to exploration and exploitation of mineral resources, no activity shall be conducted to explore or exploit such resources" (recommendation IX-1, para. 8). The decision of the Meeting also mentions that these matters will be kept under continuing examination by the Consultative Parties.

302. The above-cited recommendation lacks any definition of what should be considered as timely progress toward the adoption of the régime. Therefore, it leaves the door open to different interpretations regarding the progress required. 47/

303. The mineral resource issue dominated the discussion at the Tenth Consultative Meeting, held in Washington D.C. in 1979. At the Meeting, emphasis was placed on consideration of the environmental aspects of the future régime. The Consultative Parties agreed that a régime for mineral resources should include means for assessing the possible impact of mineral resource activities on the Antarctic environment and for determining whether mineral resource activities would be acceptable. It was stated that rules relating to the protection of the Antarctic environment and the requirement that mineral resource activities be undertaken in compliance with such rules should constitute an important part of the régime (recommendation X-1, para. 4).

304. Objectives were defined in paragraph 6 of the recommendation for studies to improve "predictions of the environmental impacts of activities, events and technologies associated with mineral resource exploration and exploitation in the Antarctic, should such occur" there.

305. At the Tenth Consultative Meeting the participants succeeded in progressing one step further in the elaboration of a joint understanding of the general scope of the régime on mineral resources. They decided that it should include "means for governing the ecological, technological, political, legal and economic aspects of the mineral resource activities in cases where they would be determined acceptable" (recommendation X-1, subpara. 4 (iii)).

306. The Eleventh Consultative Meeting, held at Buenos Aires in 1981, played a final and decisive role in identifying the goals of the Consultative Parties with respect to the régime on the Antarctic mineral resources. That Meeting marked the end of a preparatory stage during which the Consultative Parties had developed a joint general approach to the mineral resource issue and the start of negotiations on the substance of the concrete provisions of the régime.

307. In paragraph 2 of recommendation XI-1, the Consultative Parties concluded that the elaboration of the régime had become a matter of urgency. Therefore, to facilitate their work, they decided, as in the case of the marine living resources, to convene a Special Consultative Meeting "in order to elaborate a régime and to determine the form of the régime including the question as to whether an international instrument such as a convention is necessary" (para. 3) and endorsed guidelines for the Special Consultative Meeting.

308. It was reaffirmed that the régime should be based on the five principles approved at the Ninth Consultative Meeting and that it should include the agreements on requirements for the protection of the Antarctic environment reached at the Tenth Consultative Meeting.

309. As in the past, when starting a round of negotiations on a new issue, the Consultative Parties felt it necessary to restate that the mineral resource régime should not prejudice their positions of principle on the question of sovereign rights claimed in Antarctica. Since a simple reaffirmation of the Antarctic Treaty, as suggested by the Ninth Consultative Meeting, was not found sufficient, the following formula was included in paragraph 6 of the recommendation, specifying the meaning of the principle of the non-prejudicial approach:

> "Any agreement that may be reached on a régime for mineral exploration and exploitation in Antarctica elaborated by the Consultative Parties should be acceptable and be without prejudice to those States which have previously asserted rights of or claims to territorial sovereignty in Antarctica as well as to those States which neither recognize such rights of or claims to territorial sovereignty in Antarctica nor, under the provisions of the Antarctic Treaty, assert such rights or claims."

310. As to the question of protection of the environment, an additional requirement was included in subparagraphs 7 (v) and (vii) of the recommendation, providing that the régime should also include the means:

(a) To promote the conduct of research necessary to make the environmental and resource management decisions required;

(b) To ensure that the special responsibilities of the Consultative Parties with respect to the environment in the Antarctic Treaty area were protected, taking into account responsibilities that might be exercised in the area by other international organizations.

311. With respect to the area of application of the mineral resource régime, the Consultative Parties appear to have proceeded from the assumption that the Antarctic continent and the surrounding islands and adjacent sea-bed areas constitute a single unity, and that the adjacent sea-bed areas constituting the natural prolongation of the Antarctic continent under the sea should be governed by the same régime as the continent. Using this concept of interrelation between the land mass and its natural prolongation undersea, the Consultative Parties concluded at the Eleventh Meeting that the régime for Antarctic mineral resources should "apply to all mineral resource activities taking place on the Antarctic continent and its adjacent offshore areas but without encroachment on the deep sea-bed" (subpara. 7 (iv)). The precise limits of the area of application of the régime were to be determined in the course of its elaboration. 48/

312. That understanding among the Consultative Parties on the area of application of the régime apparently became possible because it allowed both claimant and non-claimant States to preserve their positions of principle stated in article IV of the Antarctic Treaty.

313. Recommendation XI-1 contains a provision indicating that the participants were "mindful of the negotiations that were taking place at the Third United Nations Conference on the Law of the Sea" (preamble). In that regard, it could be concluded that the definition adopted of the area of application of the mineral resource régime was not considered by the Consultative Parties as contradictory in any way to the draft Convention on the Law of the Sea.

314. On the question of participation in the régime, the Consultative Parties agreed that the régime should include procedures for adherence by States other than the Consultative Parties, which would ensure that those States were bound by the basic provisions of the Antarctic Treaty and would make entities of those States eligible to participate in mineral resource activities (subpara. 7 (ii)).

315. With respect to the activities embraced by the mineral resource régime, the Consultative Parties decided that the régime should "cover commercial exploration (activities related to minerals involving, in general, retention of proprietary data and/or non-scientific exploratory drilling) and exploitation (commercial development and production)" (subpara. 7 (vi)).

316. That definition of the term "exploration" may appear rather vague. Nevertheless, it could be helpful and should be considered a first step in drawing a precise distinction between "exploration", which is understood as a part of commercial activity and therefore subject to regulations under the mineral resource régime, and "scientific investigation", which can be conducted freely in accordance with the Antarctic Treaty. A clear understanding of that point is important in light of the restriction imposed in 1979 at the Ninth Consultative Meeting, namely, that "pending the timely adoption of agreed solutions pertaining to exploration and exploitation of mineral resources, no activity shall be conducted to explore or exploit such resources" (recommendation IX-1, para.8).

317. Since 1981, the Consultative Parties have continued negotiations on the mineral resource régime within the framework of the Special Consultative Meeting. Official sessions of it and informal consultations were held in June 1982 and January 1983 in New Zealand, in July 1983 in the Federal Republic of Germany, in January 1984 in the United States and in May 1984 in Japan. No official reports have been published on the deliberations which took place at these meetings. At the meeting in Tokyo, a decision was reached that the Antarctic Treaty Parties without consultative status should be invited to attend the next meeting on the Antarctic mineral resource negotiations as observers.

Notes

27/ See Barbara Mitchell, "Frozen Stakes - The Future of Antarctic Minerals" (International Institute for Environment and Development, London, 1983), p. 7; James H. Zumberge, "Mineral Resources and Geopolitics in Antarctica", American Scientist, vol. 67 (January-February 1979); John A. Dugger, "Exploiting Antarctic Mineral Resources - Technology, Economics and the Environment", University of Miami Law Review, vol. 33, No. 2 (December 1978), pp. 315-340; and Franz Tessensohn, "Present Knowledge of the Non-Living Resources in the Antarctic, Possibilities for their Exploitation and Scientific Perspectives", Proceedings of an Interdisciplinary Symposium, pp. 189-210.

28/ See Ludger Kappen, "Ecological Aspects of an Exploitation of the Non-Living Resources of the Antarctic", p. 212; Boczek, "The Protection of the Antarctic Ecosystem", p. 363; and "The Future of the Antarctic", background for a United Nations debate, 1 October 1983, Greenpeace International publication, p. 5.

Notes (continued)

29/ Report of the Group of Experts on Mineral Exploration and Exploitation, annexed to the final report of the Ninth Consultative Meeting, London, 1977, pp. 69-72.

30/ Ibid., p. 67.

31/ Colson, "The Antarctic Treaty System: The Mineral Issue", p. 849.

32/ Sollie, "Jurisdictional Problems in Relation to Antarctic Mineral Resources in Political Perspective", p. 32.

33/ C. W. Pinto, "The International Community and Antarctica", University of Miami Law Review, vol. 33, No. 2 (December 1978), pp. 475-487; see also Pinto, "Comment on Professor Wolfrum's presentation 'The Use of Antarctic Non-Living Resources: The Search for a Trustee?'", Proceedings of an Interdisciplinary Symposium, pp. 164-168.

34/ Fernando Zegers Santa Cruz, "The Antarctic System and the Utilization of Resources", University of Miami Law Review, vol. 33, No. 2 (December 1978), p. 471; see also Wolfrum, "The Use of Antarctic Non-Living Resources ...", p. 163.

35/ Mitchell, "Frozen Stakes ...", p. 41; see also Ralph L. Harry, "The Antarctic Régime and the Law of the Sea Convention: An Australian View", Virginia Journal of International Law, vol. 21-4, pp. 727-728; and Scharnhorst Müller, "The Impact of UNCLOS III on the Antarctic Régime", Proceedings of an Interdisciplinary Symposium, pp. 169-176.

36/ C. W. Pinto, Statement "Earthscan", Press Briefing Seminar on Antarctic Resources and Development, London, 25 July 1977.

37/ Alvaro de Soto, Statement, "Earthscan", Press Briefing Seminar on Antarctic Resources and Development, Washington, D.C., 14 September 1979.

38/ Wolfrum, "The Use of Antarctic Non-Living Resources ...", p. 145.

39/ Leigh Ratiner, Statement, "Earthscan", Press Briefing Seminar on the Future of Antarctica, London, 27 July 1977.

40/ Zegers Santa Cruz, "The Antarctic System ...", pp. 431, 470 and 471.

41/ Müller, "The Impact of UNCLOS III ...", p. 171.

42/ Sollie, Statement, "Earthscan", Press Briefing Seminar on the Future of Antarctica, London, 25 July 1977. See also statements by Croharé, Sollie and Wolfrum, "The Use of Antarctic Non-Living Resources: The Search for a Trustee?", Proceedings of an Interdisciplinary Symposium, pp. 179, 184 and 187.

Notes (continued)

43/ Colson, "The Antarctic Treaty System ...", pp. 882-884. See also Zegers Santa Cruz, "The Antarctic System ...", pp. 470-472.

44/ Sollie, "Trends and Prospects for Régimes for Living and Mineral Resources in Antarctica", Statement at the Twelfth Annual Conference, Law of the Sea Institute, The Hague, October 1978, p. 12.

45/ Sollie, "Jurisdictional Problems in Relation to Antarctic Mineral Resources in Political Perspective", p. 39; see also Mitchell and Kimball, "Conflict over the Cold Continent", Foreign Policy, No. 35 (1979), p. 140.

46/ Colson, "The Antarctic Treaty System ...", p. 884.

47/ Ibid., pp. 894-895.

48/ V. V. Golitsyn, "Antarctika-mejdunarodnopravovoy rejim", Mejdunarodniye atnosheniya, Moskva 1983 str. 145-146.

J. MARINE SCIENTIFIC RESEARCH AND DEVELOPMENT

Convention for the International Council for the Exploration of the Sea (ICES), September 12, 1964*

* 652 U.N.T.S. 238.

No. 9344. CONVENTION[1] BETWEEN BELGIUM, DENMARK, FINLAND, FRANCE AND THE FEDERAL REPUBLIC OF GERMANY FOR THE INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEA. DONE AT COPENHAGEN, ON 12 SEPTEMBER 1964

Preamble

The Governments of the States Parties to this Convention

Having participated in the work of the International Council for the Exploration of the Sea, which was established at Copenhagen in 1902 as a result of conferences held in Stockholm in 1899 and in Christiania in 1901 and entrusted with the task of carrying out a programme of international investigation of the sea

Desiring to provide a new constitution for the aforesaid Council with a view to facilitating the implementation of its programme

Have agreed as follows:

Article 1

It shall be the duty of the International Council for the Exploration of the Sea, hereinafter referred to as the "Council",

(*a*) to promote and encourage research and investigations for the study of the sea particularly those related to the living resources thereof;

(*b*) to draw up programmes required for this purpose and to organise, in agreement with the Contracting Parties, such research and investigation as may appear necessary;

[1] Came into force on 22 July 1968 in respect of all the States listed below, following the deposit of the instruments of ratification or approval by all signatory Governments, in accordance with article 16 (3) and (4):

State	*Date of deposit of instrument of ratification or accession* (a)
Belgium	20 July 1967
Canada (*a*)	22 July 1968
Denmark	20 April 1965
Finland	10 June 1965
France	19 January 1965
Federal Republic of Germany (including *Land* Berlin)	13 May 1965
Iceland	4 December 1964
Ireland	10 June 1965
Italy	28 December 1967
Netherlands	13 February 1967
Norway	20 May 1965
Poland	25 November 1966
Portugal	18 February 1966
Spain	9 September 1965
Sweden	30 November 1964
Union of Soviet Socialist Republics	28 October 1965
United Kingdom of Great Britain and Northern Ireland	4 May 1965

(*c*) to publish or otherwise disseminate the results of research and investigations carried out under its auspices or to encourage the publication thereof.

Article 2

The Council shall be concerned with the Atlantic Ocean and its adjacent seas and primarily concerned with the North Atlantic.

Article 3

(1) The Council shall be maintained in accordance with the provisions of this Convention.

(2) The seat of the Council shall remain at Copenhagen.

Article 4

The Council shall seek to establish and maintain working arrangements with other international organisations which have related objectives and cooperate, as far as possible, with them, in particular in the supply of scientific information requested.

Article 5

The Contracting Parties undertake to furnish to the Council information which will contribute to the purposes of this Convention and can reasonably be made available and, wherever possible, to assist in carrying out the programmes of research coordinated by the Council.

Article 6

(1) Each Contracting Party shall be represented at the Council by not more than two delegates.

(2) A delegate who is not present at a meeting of the Council may be replaced by a substitute who shall have all the powers of the delegate for that meeting.

(3) Each Contracting Party may appoint such experts and advisers as it may determine to assist in the work of the Council.

Article 7

(1) The Council shall meet in ordinary session once a year. This session shall be held in Copenhagen, unless the Council decides otherwise.

(2) Extraordinary sessions of the Council may be called by the Bureau at such place and time as it may determine and shall be so called on the request of at least one-third of the Contracting Parties.

Article 8

(1) Each Contracting Party shall have one vote in the Council.

(2) Decisions of the Council shall, except where otherwise in this Convention specially provided, be taken by a simple majority of the votes cast for or against. If there is an even division of votes on any matter which is subject to a simple majority decision the proposal shall be regarded as rejected.

Article 9

(1) Subject to the provisions of this Convention the Council shall draw up its own Rules of Procedure which shall be adopted by a two-thirds majority of the Contracting Parties.

(2) English and French shall be the working languages of the Council.

Article 10

(1) The Council shall elect from among the delegates its President, a first Vice-President, and a further 5 Vice-Presidents. This last number may be augmented by a decision taken by the Council by a two-thirds majority.

(2) The President and the Vice-Presidents shall assume office on the first day of November next following their election, for a term of three years. They are eligible for re-election according to the Rules of Procedure.

(3) On assuming office the President shall cease forthwith to be a delegate.

Article 11

(1) The President and Vice-Presidents shall together constitute the Bureau of the Council.

(2) The Bureau shall be the Executive Committee of the Council and shall carry out the decisions of the Council, draw up its agenda and convene its meetings. It shall also prepare the budget. It shall invest the reserve funds and carry out the tasks entrusted to it by the Council. It shall account to the Council for its activities.

Article 12

There shall be a Consultative Committee, a Finance Committee and such other committees as the Council may deem necessary for the discharge of its functions with the duties respectively assigned to them in the Rules of Procedure.

Article 13

(1) The Council shall appoint a General Secretary on such terms and to perform such duties as it may determine.

(2) Subject to any general directions of the Council the Bureau shall appoint such other staff as may be required for the purposes of the Council on such terms and to perform such duties as it may determine.

Article 14

(1) Each Contracting Party shall pay the expenses of the delegates, experts and advisers appointed by it, except in so far as the Council may otherwise determine.

(2) The Council shall approve an annual budget of the proposed expenditure of the Council.

(3) In the first and second financial years after this Convention enters into force in accordance with Article 16 of this Convention the Contracting Parties shall contribute to the expenses of the Council such sums as they respectively contributed, or undertook to contribute, in respect of the year preceding the entry into force of this Convention.

(4) In respect of the third and subsequent financial years the Contracting Parties shall contribute sums calculated in accordance with a scheme to be prepared by the Council and accepted by all the Contracting Parties. This scheme may be modified by the Council with the agreement of all Contracting Parties.

(5) A Government acceding to this Convention shall contribute to the expenses of the Council such sum as may be agreed between that Government and the Council in respect of each financial year until the scheme under paragraph 4 provides for contributions from that Government.

(6) A Contracting Party which has not paid its contribution for two consecutive years shall not enjoy any rights under this Convention until it has fulfilled its financial obligations.

Article 15

(1) The Council shall enjoy, in the territories of the Contracting Parties, such legal capacity as may be agreed between the Council and the Government of the Contracting Party concerned.

(2) The Council, delegates and experts, the General Secretary and other officials shall enjoy in the territories of the Contracting Parties such privileges and immunities, necessary for the fulfilment of their functions, as may be agreed between the Council and the Government of the Contracting Party concerned.

Article 16

(1) This Convention shall be open until 31st December, 1964, for signature on behalf of the Governments of all states which participate in the work of the Council.

(2) This Convention is subject to ratification or approval by the signatory Governments in accordance with their respective constitutional procedures. The instruments of ratification or approval shall be deposited with the Government of Denmark, who will act as the depository Government.

(3) This Convention shall enter into force on the 22nd July next following the deposit of the instruments of ratification or approval by all signatory Governments. If, however, on the 1st January, 1968, all the signatory Governments have not ratified this Convention, but not less than three quarters of the signatory Governments have deposited instruments of ratification or approval, these latter Governments may agree among themselves by special protocol [1] on the date on which this Convention shall enter into force and on other related matters ; and in that case this Convention shall enter into force, with respect to any other signatory Government that ratifies or approves thereafter, on the date of deposit of its instrument of ratification or approval.

(4) After the entry into force of this Convention in accordance with paragraph 3 of this Article, the Government of any State may apply to accede to this Convention by addressing a written application to the Government of Denmark, It shall be permitted to deposit an instrument of accession with that Government after the approval of the Governments of three quarters of the states which have already deposited their instruments of ratification, approval or accession, has been notified to the Government of Denmark.

[1] As of 1 January 1968, all Signatory Governments had deposited instruments of ratifications or approval.

For any acceding Government this Convention shall enter into force on the date of deposit of its instrument of accession.

Article 17

At any time after two years from the date on which this Convention has come into force any Contracting Party may denounce the Convention by means of a notice in writing addressed to the Government of Denmark. Any such notice shall take effect twelve months after the date of its receipt.

Article 18

When the present Convention comes into force it shall be registered by the depository Government with the Secretariat of the United Nations Organisation in accordance with Article 102 of its Charter.

Final Clause

IN WITNESS WHEREOF the undersigned being duly authorised have signed the present Convention :

DONE at Copenhagen this twelfth day of September 1964, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of Denmark who shall forward certified true copies to all signatory and acceding Governments.

For the Belgian Government :

For the Danish Government :

J. NORGAARD

For the Finnish Government :

For the French Government :

For the Government of the Federal Republic of Germany :

Agreement on Cooperation in Studies of the World Ocean (United States - U.S.S.R.), June 19, 1973*

* 24 U.S.T. 1453; T.I.A.S. 7651.

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS
ON COOPERATION IN STUDIES OF THE WORLD OCEAN

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics;

Recognizing the importance of comprehensive studies of the World Ocean for peaceful purposes and for the well-being of mankind;

Striving for more complete knowledge and rational utilization of the World Ocean by all nations through broad international cooperation in oceanographic investigation and research;

Aware of the capabilities and resources of both countries for studies of the World Ocean and the extensive history and successful results of previous cooperation between them;

Desiring to combine their efforts in the further investigation of the World Ocean and to use the results for the benefit of the peoples of both countries and of all mankind; and

In pursuance and further development of the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Cooperation in the Fields of Science and Technology of May 24, 1972,[1] and in accordance with the Agreement on Exchanges and Cooperation in Scientific, Technical, Educational, Cultural and Other Fields of April 11, 1972,[2] and in accordance with the Agreement on Cooperation in the Field of Environmental Protection of May 23, 1972;[3]

Have agreed as follows:

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[1] TIAS 7346; 23 UST 856.
[2] TIAS 7343; 23 UST 790.
[3] TIAS 7345; 23 UST 845.

ARTICLE 1

The Parties will develop and carry out cooperation in studies of the World Ocean on the basis of equality, reciprocity and mutual benefit.

ARTICLE 2

In their studies of the World Ocean, the Parties will direct cooperative efforts to the investigation and solution of important basic and applied research problems. Initially, cooperation will be implemented in the following areas:

a. Large-scale ocean-atmosphere interaction, including laboratory studies, oceanic experiments, and mathematical modeling of the ocean-atmosphere system.

b. Ocean currents of planetary scale and other questions of ocean dynamics.

c. Geochemistry and marine chemistry of the World Ocean.

d. Geological and geophysical investigations of the World Ocean, including deep sea drilling for scientific purposes.

e. Biological productivity of the World Ocean and the biochemistry of the functioning of individual organisms and whole biological communities in the World Ocean.

f. Intercalibration and standardization of oceanographic instrumentation and methods.

Other areas of cooperation may be added by mutual agreement.

ARTICLE 3

Cooperation provided for in the preceding Articles may take the following forms:

a. Joint planning, development, and implementation of research projects and programs;

b. Exchange of scientists, specialists, and advanced students;

c. Exchange of scientific and technical information, documentation, and experience, including the results of national oceanographic studies;

d. Convening of joint conferences, meetings, and seminars of specialists;

e. Appropriate participation by both countries in multilateral cooperative activities sponsored by international scientific organizations;

f. Facilitation by both Parties, in accordance with laws, rules and regulations of each country and relevant bilateral agreements, of use of appropriate port facilities of the two countries for ships' services and supplies, including provision for rest and changes of ships' personnel, in connection with carrying out cooperative activities.

Other forms of cooperation may be added by mutual agreement.

ARTICLE 4

In furtherance of the aims of this Agreement, the Parties will, as appropriate, encourage, facilitate and monitor the development of cooperation and direct contacts between agencies, organizations

and firms of the two countries, including the conclusion, as appropriate, of implementing agreements for carrying out specific projects and programs under this Agreement.

ARTICLE 5

1. For implementation of this Agreement, there shall be established a US-USSR Joint Committee on Cooperation in World Ocean Studies. This Joint Committee shall meet, as a rule, once a year, alternately in the United States and the Soviet Union, unless otherwise mutually agreed.

2. The Joint Committee shall take such action as is necessary for effective implemention of this Agreement including, but not limited to, approval of specific projects and programs of cooperation; designation of appropriate agencies and organizations to be responsible for carrying out cooperative activities; and making recommendations, as appropriate, to the Parties.

3. Each Party shall designate its Executive Agent which will be responsible for carrying out this Agreement. During the period between meetings of the Joint Committee, the Executive Agents shall maintain contact with each other and coordinate and supervise the development and implementation of cooperative activities conducted under this Agreement.

ARTICLE 6

Nothing in this Agreement shall be interpreted to prejudice other agreements between the Parties or commitments of either Party to other international oceanographic programs.

ARTICLE 7

Each Party, with the consent of the other Party, may invite third countries to participate in cooperative activities engaged in under this Agreement.

ARTICLE 8

1. This Agreement shall enter into force upon signature and remain in force for five years. It may be modified or extended by mutual agreement of the Parties.

2. The termination of the Agreement shall not affect the validity of implementing agreements concluded under this Agreement between interested agencies, organizations and firms of the two countries.

DONE at Washington, this 19th day of June, 1973, in duplicate, in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS:

[1] [2]

[1] William P. Rogers
[2] A. Gromyko

Agreement Between the Government of Australia, New Zealand, and the United States of America in Cooperation with the Committee for the Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas Relating to the Conduct of a Joint Programme of Marine Geoscientific Research and Mineral Resource Studies of the South Pacific Region, March 12, 1982*

* T.I.A.S. 10359; Austral. Treaty Ser. 1982 No. 5.

AGREEMENT BETWEEN THE GOVERNMENTS OF AUSTRALIA, NEW ZEALAND AND THE UNITED STATES OF AMERICA IN COOPERATION WITH THE COMMITTEE FOR THE COORDINATION OF JOINT PROSPECTING FOR MINERAL RESOURCES IN SOUTH PACIFIC OFFSHORE AREAS RELATING TO THE CONDUCT OF A JOINT PROGRAMME OF MARINE GEOSCIENTIFIC RESEARCH AND MINERAL RESOURCE STUDIES OF THE SOUTH PACIFIC REGION

The Governments of Australia, New Zealand and the United States of America in cooperation with the Committee for the Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (CCOP/SOPAC),

Recalling that interested Pacific Island Governments, namely the Governments of the Cook Islands, Fiji, Kiribati, Papua New Guinea, Solomon Islands, the Kingdom of Tonga, Vanuatu and Western Samoa have requested CCOP/SOPAC to initiate certain programmes and investigations with respect to the mineral potential of the ocean floor in the South Pacific Ocean;

Recognising that CCOP/SOPAC has sought the assistance of the Governments of Australia, New Zealand and the United States of America in funding and implementing such programmes and investigations;

Noting that the member Governments of CCOP/SOPAC at their tenth meeting at Vila in October, 1981 endorsed a joint programme of Geoscientific Research and Mineral Resource Studies formulated by the Governments of Australia, New Zealand and the United States in consultation with the CCOP/SOPAC Technical Secretariat and member Governments and authorised CCOP/SOPAC to make appropriate arrangements;

Noting further that CCOP/SOPAC has indicated its willingness to contribute to and cooperate in the programmes and investigations and that details of its participation are set out in a letter of February 2, 1982 from Alexander MacFarlane reproduced in Annex A to this Agreement; and

Convinced that the joint programme of Geoscientific Researeh and Mineral Resource Studies represents a significant expansion of mineral exploration activities being conducted for the benefit of Pacific Island countries;

Have agreed as follows:

Article I

The Signatories agree to establish and maintain the Joint Programme of Marine Geoscientific Research and Mineral Resource Studies in accordance with the provisions of this Agreement and the Scientific and Technical Annex set out in Annex B to this Agreement.

Article II

The objectives of the Joint Programme shall be:

(a) to assist interested Pacific Island Governments to develop and promote the investigation of the mineral potential, including hydrocarbons, of the shelves, platforms, and ocean floor in the South Pacific Ocean;

(b) take account of survey work, data reassessment and CCOP/SOPAC action programmes in hand to design ocean and related land research programmes which offer a significant expansion of activity in high priority areas for

investigation in the South Pacific region with maximum prospective benefits to interested Pacific Island Governments in terms of enhanced scientific understanding which are focussed primarily on:

(i) hydrocarbon search;
(ii) analysis of regional tectonics;
(iii) search for metalliferous resources;

(c) to provide advanced ocean research vessels and teams of skilled scientific manpower and technicians, drawing upon combined resources available to the Signatories with highest available and suitable level of technological inputs, advanced scientific equipment, data processing facilities, laboratory and office work, data interpretation and final analysis reporting;

(d) to provide opportunities to the extent feasible for involvement in data collection, processing and analysis by scientists and trainees from interested South Pacific Island countries in whose areas research is conducted;

(e) to arrange an opening framework of scientific and programme planning consultations amongst the Signatories enabling adequate monitoring and evaluation, programme review and reporting, and modifications and extensions of the Joint Programme in specified areas;

(f) to provide end-data in readily usable form under distribution and copyright arrangements settled between all Signatories and acceptable to the interested Pacific Island Governments.

Article III

The Joint Programme shall commence early in 1982 and include two advanced geoscientific research cruises and related land work research as follows:

(a) The cruise of the R/V Kana Keoki shall consist of a 60-day marine geological and geophysical cruise to investigate regional tectonics, sedimentation, metallogenesis and mineralization along the Northern Melanesian Borderland, the Fiji Plateau and the Solomon Islands/Woodlark Basin area. The ship shall collect geophysical data with single channel continuous seismic reflection, gravity, magnetics and bathymetric profiling systems. Extensive sampling using cores and dredges shall be carried out in all areas, with extensive bottom photography on Leg 2 and heat flow measurements on Leg 3. Requisite navigational control shall be maintained throughout the survey. All data shall be copied and supplied to appropriate programme participants. Data analysis and publication shall be completed within 18 months of the end of the field work. Cruise planning and post-cruise coordination of analytical work shall be carried out by programme participants.

(b) The cruise of the R/V S.P. Lee and related land studies shall consist of a 60-day marine geophysical and geological cruise to investigate the hydrocarbon potential of selected areas offshore of Tonga, Vanuatu, and Solomon Islands. Onshore source rock studies, also including Fiji, shall be undertaken within the general time frame of the cruise and shall be correlated with offshore data. Offshore investigation shall entail collection of geophysical data with multi-channel and single channel, deep penetration and high resolution, continuous seismic-reflection, magnetic and gravimetric profiling systems. Where desirable selected sea bed rock and sediment samples, underwater photographs and side-scan profiles shall be collected. Requisite navigational control shall be maintained throughout the survey. On-shore fresh rock samples shall be collected from outcrop and drilling and shall be analysed for petrologic type and hydrocarbon maturation. All

data shall be copied and supplied to appropriate programme participants, processed and analysed and results published in printed reports within 18 months after the completion of the last leg of the ships cruise. Appropriate maps, cross-sections, tables, and written text shall be used to explain the hydrocarbon potential and geological hazards in the investigation areas.

Article IV

(a) Upon completion of data collection, the data processing, analysis and reproduction work shall be expeditiously carried to completion and the results disseminated as provided in Article II(f).

(b) As far as possible all work shall be completed by 30 June 1983 to be followed by new consultations amongst the Signatories to consider the possibility of subsequent phases of the Joint Programme. Subsequent phases, if any, shall be designed to offer the maximum indicated research and resource definition benefits to interested Pacific Island Governments and shall take place at the earliest suitable opportunity after initial phase evaluations have been completed. Such subsequent phases might include ocean bottom seismic recording around the North Fiji Basin Triple Junction, detailed multibeam scans and further hydrocarbon and resources research in indicated areas.

Article V

(a) The Signatories shall liaise closely with the CCOP/SOPAC Technical Secretariat with respect to the provision by CCOP/SOPAC of administrative support and coordination for the Joint Programme. In particular they shall use the CCOP/SOPAC Secretariat as a channel for securing from interested Pacific Island Governments:
  (i) logistic assistance and other related cooperation;
  (ii) data and other scientific material that would assist research teams and planners in their investigations;
  (iii) other general cooperation and liaison.

(b) The Signatories shall not be responsible for the costs of travel and per diem expenses for travel within the region of Pacific Island representatives and CCOP/SOPAC personnel participating in the Joint Programme. No charges shall be made, however, for accommodation and food supplied to such personnel on board the R/V S.P. Lee and the R/V Kana Keoki.

Article VI

The Government of Australia agrees to provide funds, goods and services up to a value of US$1,200,000 to be applied as follows:

(a) The Government of Australia shall provide appropriately qualified geophysical and geological experts including: marine geophysicists, marine geologists, geochemists, petrologists, sedimentologists, and micropalaeontologists, to participate in the planning, data collection, and data processing and analysis phases of the Joint Programme.

(b) The travel, accommodation and per diem allowances for these experts shall be met by the Government of Australia. All downstream costs of data processing, analysis and reproduction related to the specialist areas for which the Government of Australia agrees to provide experts shall also be borne by the Government of Australia.

(c) In addition the Government of Australia agrees to provide the following contributions towards cruise costs for the research vessels to be employed in the Joint Programme:

(i) a sum of US$104,000 to finance sixteen days sea time in the basic geological/geophysical research programme of the R/V Kana Keoki in the Woodlark Basin; and

(ii) a sum of US$325,000 to finance twenty five days sea time for high technology resource exploration research activity by R/V S.P. Lee.

(d) The Government of Australia further agrees to meet appropriate travel and related expenses associated with the participation of selected persons with special interest in the Joint Programme at geological/geophysical laboratories and institutions where Joint Programme work is in process and who are nominated by interested Pacific Island Governments.

Article VII

The Government of New Zealand agrees to provide funds, goods and services up to an amount of US$120,000 to be applied as follows:

(a) The Government of New Zealand shall provide appropriately qualified geophysical and geological experts including: marine geophysicists, marine and land geologists, petroleum geologists, petrologists, sedimentologists and micropalaeontologists, to participate in the planning, data collection and data processing and analysis phases of the Joint Programme.

(b) The travel, accommodation and per diem allowances for the experts referred to in the previous paragraph shall be met by the Government of New Zealand. All downstream costs of data processing, analysis and reproduction related to the specialist areas for which the Government of New Zealand agrees to provide experts shall also be borne by the Government of New Zealand.

(c) The Government of New Zealand shall assist as appropriate with travel and related expenses of selected participants from Pacific Island countries in the Joint Programme and who are nominated by interested Pacific Island Governments. In particular, the Government of New Zealand shall assist with these expenses where associated with work in New Zealand and elsewhere, at geological and geophysical laboratories and institutions, in areas of interest to the countries concerned.

(d) The Government of New Zealand shall contribute to the seatime cruise costs of the cruise of the R/V Kana Keoki a sum of up to US$20,000.

Article VIII

The Government of the United States of America agrees to provide funds, goods and services under this Agreement in an amount not to exceed US$2,400,000, comprised of contributions of funds, goods and services by concerned United States agencies — AID US$1,000,000, USGS US$650,000, NAVY (ONR) US$750,000 — to be applied as follows:

(a) The Government of the United States of America shall secure the services of two research vessels suitably equipped for geological and geophysical ocean research R/V Kana Keoki and R/V S.P. Lee, for use by the Joint Programme in the initial cruise programme.

(b) The Government of the United States of America shall arrange all fitment, provisioning and logistics for the planned initial cruises and provide suitably skilled technicians to operate and maintain the basic and high technology equipment on board.

(c) The Government of the United States of America shall provide as appropriate qualified geophysical and geological experts including: marine geophysicists, land and marine geologists, sedimentologists, geochemists,

petrologists, electronic and marine technicians, computer operators, precision location navigators, and laboratory technicians to participate in the planning, data collection, data processing and analysis phases of the Joint Programme.

(d) The travel, accommodation and per diem allowances for the experts referred to in the previous paragraph shall be met by the Government of the United States of America. All downstream costs of data processing, analysis and reproduction related to the specialist areas for which the United States agrees to provide experts shall also be borne by the Government of the United States of America.

(e) The Government of the United States of America shall contribute towards the operations of the research vessels as follows:
   (i) all vessel transit costs to and from mutually acceptable start and finish ports;
   (ii) cruise costs for a total of 50 days (estimated 40 days sea time research) for R/V Kana Keoki while engaged in the basic geological/geophysical research programme;
   (iii) cruise costs for 41 days for R/V S.P. Lee while engaged in ocean research and while travelling and while in port between legs of the cruise.

(f) The Government of the United States of America further agrees to meet appropriate travel and living expenses of CCOP/SOPAC Co-Chief Scientists to, in and from the United States for the purpose of attendance at geological/geophysical laboratories and institutes. Selected persons nominated by interested Pacific Island Governments and scientists of signatory countries with special interest in the Joint Programme shall be welcome to participate in data analysis being undertaken in the United States.

Article IX

(a) The Signatories agree that pre- and post-cruise technical meetings for each cruise leg should be scheduled to facilitate cruise planning, analysis and interpretation of data, synthesis of results, and publications.

(b) Two pre-cruise planning sessions should be held. The first meeting should be held as far in advance as possible (at least two months) to facilitate planning and should include the Co-Chief Scientists and as many of the other principal members of the scientific party as possible. The second meeting should be held one or two days before the start of each cruise leg at the port of embarkation with the objective of briefing the scientific party and making minor adjustments to the cruise plans based on recently acquired information, and should be attended by all participating scientists and pertinent support staff.

(c) A debriefing should be held upon arrival at the port of disembarkation, prior to dispersal, with the purpose of determining responsibility for the analysis and interpretation of the various data sets acquired during the leg, and for planning the timing of subsequent post-cruise meetings. After sufficient time has elapsed to enable reduction and analysis of data, as determined at the first post cruise meeting, at least one other post-cruise synthesis meeting should be held involving all principal scientific participants of the cruise. These meetings should have access, as far as possible, to cruise data to facilitate synthesis of results and preparation of reports and could involve non-shipboard scientific investigators who are also engaged in the data analysis. Ad hoc meetings of those involved in specific aspects may

also be required to complete the synthesis and preparation of these reports.

Article X

(a) A Joint Programme Coordinator designated by CCOP/SOPAC shall ensure appropriate administrative support and facilitate execution of the Joint Programme.

(b) The Government of Australia shall appoint a national coordinating committee whose chairman will serve as a point of contact to facilitate communication and Australian participation.

(c) The Government of New Zealand shall designate an individual as a national coordinator to serve as a point of contact to facilitate communications and New Zealand participation.

(d) The Government of the United States of America shall appoint a national coordination committee whose chairman shall serve as a point of contact to facilitate communication and United States participation. In addition, the U.S. Geological Survey and the University of Hawaii shall each designate a cruise coordinator who shall serve as respective points of contact for coordination of particular research vessel operations and participation of their respective agencies in specific cruises.

(e) Ad hoc meetings of the Signatories and/or of the national coordinators shall be held as necessary to review and evaluate progress and to discuss modifications or extensions to the Joint Programme. The results of these meetings shall be communicated to all Signatories.

Article XI

(a) The United States' institutions providing the research vessels to the Joint Programme may nominate one of the two Co-Chief Scientists from their institutions for each cruise leg or the full cruise duration at their discretion.

(b) The Signatories understand that CCOP/SOPAC may nominate the other Co-Chief Scientist for each leg as appropriate from available qualified scientific manpower resources within CCOP/SOPAC, the interested Pacific Island countries and the signatory countries.

Article XII

(a) Amounts in excess of requirements at the completion of the Joint Programme shall be refunded to contributors in the proportion of their original contributions.

(b) To the extent that the carrying out of any activity or implementation of any part of this Agreement by the Government of the United States of America depends on availability of funds for fiscal year 1983 and beyond, such activity or implementation shall be subject to the availability of such funds.

Article XIII

(a) The responsibility for assigning original data and samples at the conclusion of each leg of each cruise rests with the Co-Chief Scientists who shall also ensure that copies of underway data and representative splits of samples as appropriate (where this is possible without detriment to their scientific value) are supplied to the Signatories.

(b) Subject to the laws, regulations or guidelines in force in any of the signatory countries at the date of entry into force of this Agreement, all data and

samples collected are proprietory to programme participants for the first two years following completion of the cruise and permission for use by other than programme participants is required from CCOP/SOPAC. After two years, permission is not required to use the data or samples but, subject to the laws, regulations or guidelines in force in any of the Signatory countries, CCOP/SOPAC shall be informed of the purpose of the use at the time the data or samples are provided, and shall be acknowledged in and receive copies of any publications resulting from or including the data or samples.

(c) At least one publication describing the cruise and its results shall be the responsibility of, and be co-authored by, the Co-Chief Scientists. This may include joint authorship by other programme participants and contributors.

(d) Following the above publication, and subject to the laws, regulations and guidelines in force in any of the signatory countries, other publications authored or co-authored by programme participants using programme data should appear as a joint contribution from the author's institution and CCOP/SOPAC, acknowledging the cruise sponsorship.

(e) Copies of all manuscripts should be provided at the prepublication stage through the national coordinators to all agencies and organizations participating in the cruise.

(f) For the purposes of this article, programme participants are defined as individuals on the two cruises and their sponsoring agencies or organizations.

Article XIV

The Executing Authorities for the Joint Programme shall be:

(i) for the Government of Australia, the Australian Development Assistance Bureau;

(ii) for the Government of New Zealand, the Ministry of Foreign Affairs;

(iii) for the Government of the United States of America, the Office of Naval Research in relation to the operations of the R/V Kana Keoki cruise and the United States Geological Survey in relation to the operation of the R/V S.P. Lee cruise and related onshore work.

Article XV

(a) The cruises and related responsibilities under this Agreement may be suspended or terminated in the event of:

(i) the mechanical or electrical failure or loss of scientific equipment essential to the cruise;

(ii) acts of God, acts of public enemy, war, strikes, civil disturbances and other similar events; or

(iii) mutual consent of the Signatories.

(b) In the event of termination or suspension of performance the Signatories and CCOP/SOPAC shall consult and endeavour jointly to resolve any attendant difficulties.

Article XVI

(a) This Agreement shall enter into force on the date of signature and shall remain in force for three years.

(b) Amendments to this Agreement may be made at any time by an exchange of letters between the Signatories.

(c) Amendments to Annex B to this Agreement may be made at any time by mutual arrangement between the Joint Programme Coordinator and the national coordinators.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments have signed this Agreement.

Done at Suva this twelfth day of March, 1982.

[signed] R.J. GREET
For the Government of Australia

[signed] M.J. POWELS
For the Government of New Zealand

[signed] FRED J. ECKERT
For the Government of the United States of America

K. NON-LIVING RESOURCES UNDER NATIONAL JURISDICTION

Agreement Relating to the Joint Exploitation of the Natural Resources of the Sea-Bed and Sub-Soil of the Red Sea in the Common Zone (Sudan-Saudi Arabia), May 16, 1974*

* 952 U.N.T.S. 198.

[TRANSLATION[1] — TRADUCTION[2]]

AGREEMENT[3] BETWEEN THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE SUDAN AND THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA RELATING TO THE JOINT EXPLOITATION OF THE NATURAL RESOURCES OF THE SEA-BED AND SUBSOIL OF THE RED SEA IN THE COMMON ZONE

The Government of the Democratic Republic of the Sudan and the Government of the Kingdom of Saudi Arabia,

Desiring to confirm the existing bonds of friendship between the people of the two countries, and

Desiring to exploit the natural resources of the sea-bed and subsoil of the Red Sea,

Have agreed as follows:

Article I. For the purposes of the present Agreement the following expressions shall have the meanings hereunder assigned to them:

(1) "Sea-bed" includes the sea-bed and subsoil of the Red Sea.

(2) "Natural resources" comprise the non-living substances including the hydrocarbon and the mineral resources.

(3) "Territorial Sea" means the Territorial Sea as defined in the laws of the two Governments.

(4) "The Competent Minister" means the Minister appointed by the Government of the Kingdom of Saudi Arabia and the Minister appointed by the Government of the Democratic Republic of the Sudan to represent each of them in the Joint Commission.

Article II. The two Governments covenant to co-operate through all ways and means to explore and exploit the natural resources of the sea-bed of the Red Sea.

Article III. The Government of the Kingdom of Saudi Arabia recognises that the Government of the Democratic Republic of the Sudan has exclusive sovereign rights in the area of the sea-bed adjacent to the Sudanese coast and extending eastwards to a line where the depth of the superjacent waters is uninterruptedly one thousand metres. The Government of the Kingdom of Saudi Arabia claims no rights in this area.

Article IV. The Government of the Democratic Republic of the Sudan recognises that the Government of the Kingdom of Saudi Arabia has exclusive sovereign rights in the area of the sea-bed adjacent to the Saudi Arabian coast and extending westwards to a line where the depth of the superjacent waters is uninterruptedly one thousand metres. The Government of the Democratic Republic of the Sudan claims no rights in this area.

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[1] Translation supplied by the Government of the Sudan.

[2] Traduction fournie par le Gouvernement soudanais.

[3] Came into force on 26 August 1974 by the exchange of the instruments of ratification, which took place at Djidda, in accordance with article XVII.

Article V. The two Governments recognise that the area of the sea-bed lying between the two areas defined in articles III and IV above is common to both Governments and shall hereafter be known as the Common Zone. The two Governments have equal sovereign rights in all the natural resources of the Common Zone which rights are exclusive to them. No part of the territorial sea of either Government shall be included in the Common Zone.

Article VI. The two Governments confirm that their equal sovereign rights in the Common Zone embrace all the natural resources therein and that they alone have the right to exploit such resources. The two Governments undertake to protect their sovereign rights and defend them against third parties.

Article VII. To ensure the prompt and efficient exploitation of the natural resources of the Common Zone there shall be established a Commission referred to hereafter as the Joint Commission. The Joint Commission shall be charged with the following functions:

(*a*) to survey, delimit and demarcate the boundaries of the Common Zone;

(*b*) to undertake the studies concerning the exploration and the exploitation of the natural resources of the Common Zone;

(*c*) to encourage the specialised bodies to undertake operations for the exploration of the natural resources of the Common Zone;

(*d*) to consider and decide, in accordance with the conditions it prescribes, on the applications for licences and concessions concerning exploration and exploitation;

(*e*) to take the steps necessary to expedite the exploitation of the natural resources of the sea-bed in the Common Zone;

(*f*) to organise the supervision of the exploitation at the production stage;

(*g*) to make such regulations as may be necessary for the discharge of the functions assigned to it;

(*h*) to prepare the estimates for all the expenses of the Joint Commission;

(*i*) to undertake any other functions or duties that may be entrusted to it by the two Governments.

Article VIII. The Joint Commission established under article VII of this Agreement shall be a body corporate enjoying in the Kingdom of Saudi Arabia and the Democratic Republic of the Sudan such legal capacity as may be necessary for the exercise of all the functions assigned to it.

Article IX. The Joint Commission shall consist of an equal number of representatives from each of the two countries and each side in the Joint Commission shall be headed by the competent Minister. The Regulations shall lay down the Joint Commission's rules of procedure.

Article X. The Joint Commission shall have a sufficient number of officials. The Joint Commission shall determine their number and terms of service.

Article XI. The seat of the Joint Commission shall be the city of Jeddah in the Kingdom of Saudi Arabia. The Joint Commission may, however, hold meetings at any other place it decides upon.

ArticleXII. The Government of the Kingdom of Saudi Arabia shall provide such funds as would enable the Joint Commission to discharge effectively the functions entrusted to it. The Government of the Kingdom of Saudi Arabia shall recover

such funds from the returns of the production of the Common Zone and in a manner to be agreed upon between the two countries.

Article XIII. Whereas the Government of the Democratic Republic of the Sudan has concluded on May 15th, 1973, an agreement whereby it has given exploration licences to Sudanese Minerals Limited and the West German Company of Preussag which agreement has created legal obligations on the Government of the Democratic Republic of the Sudan, the two Governments have agreed that the Joint Commission shall decide on this matter in such a manner as to preserve the rights of the Government of the Democratic Republic of the Sudan and in the context of the regime established by this Agreement for the Common Zone.

Article XIV. In the event that any accumulation or deposit of a natural resource extends across the boundary of the exclusive sovereign rights area of either Government and the Common Zone, the Joint Commission shall determine the manner in which it is to be exploited provided that any decision taken shall guarantee for the Government involved an equitable share in the proceeds of the exploitation of such accumulation or deposit.

Article XV. The application of this Agreement shall not affect the status of the high seas or obstruct navigation therein within the limits provided for by the established rules of public international law.

Article XVI. If a dispute arises respecting the interpretation or implementation of this Agreement or the rights and obligations it creates, the two Governments shall seek to settle such dispute by amicable means.

If the settlement of the dispute through amicable means fails, the dispute shall be submitted to the International Court of Justice. The Parties accept the compulsory jurisdiction of the International Court of Justice in this respect.

If one of the two Governments takes a measure which is objected to by the other, the objecting Government may ask the International Court of Justice to indicate interim measures to be taken to stop the measure objected to or to allow its continuance pending the final decision.

Article XVII. This Agreement is subject to ratification in accordance with the constitutional requirements of each Government and shall enter into force on the day on which the instruments of ratification are exchanged.

DONE in the City of Khartoum on this day, the twenty fourth of Rabi Thani 1394 Hijra, corresponding to the sixteenth of May, 1974, in two original texts in Arabic, both of which are authentic.

For the Government
of the Kingdom
of Saudi Arabia:
AHMED ZAKI YAMANI
Minister of Petroleum
and Mineral Resources

For the Government
of the Democratic Republic
of the Sudan:
MANSOUR KHALID
Minister for Foreign Affairs

L. EXCLUSIVE ECONOMIC ZONE

Exclusive Economic Zone of the United States of America, Proclamation 5030, March 10, 1983*

* 22 I.L.M. 465.

EXCLUSIVE ECONOMIC ZONE

A Proclamation by President Reagan
March 10, 1983

WHEREAS the Government of the United States of America desires to facilitate the wise development and use of the oceans consistent with international law;

WHEREAS international law recognizes that, in a zone beyond its territory and adjacent to its territorial sea, known as the Exclusive Economic Zone, a coastal State may assert certain sovereign rights over natural resources and related jurisdiction; and

WHEREAS the establishment of an Exclusive Economic Zone by the United States will advance the development of ocean resources and promote the protection of the marine environment, while not affecting other lawful uses of the zone, including the freedoms of navigation and overflight, by other States;

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, do hereby proclaim the sovereign rights and jurisdiction of the United States of America and confirm also the rights and freedoms of all States within an Exclusive Economic Zone, as described herein.

The Exclusive Economic Zone of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and United States overseas territories and possessions. The Exclusive Economic Zone extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the Exclusive Economic Zone shall be determined by the United States and other State concerned in accordance with equitable principles.

Within the Exclusive Economic Zone, the United States has, to the extent permitted by international law, (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters 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; and (b) jurisdiction with regard to the establishment and use of artificial islands, and installations and structures having economic purposes, and the protection and preservation of the marine environment.

This Proclamation does not change existing United States policies concerning the continental shelf, marine mammals and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction and require international agreements for effective management.

The United States will exercise these sovereign rights and jurisdiction in accordance with the rules of international law.

Without prejudice to the sovereign rights and jurisdiction of the United States, the Exclusive Economic Zone remains an area beyond the territory and territorial sea of the United States in which all States enjoy the high seas freedoms of navigation, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

IN WITNESS THEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Decree of the Presidium of the Supreme Soviet of the U.S.S.R. on the Economic Zone of the U.S.S.R., February 28, 1984*

* Law of the Sea Bulletin No. 4 at 3, (Feb. 1985).

Decree of the Presidium of the Supreme Soviet of the USSR on the Economic Zone of the USSR 28 February 1984

For the conservation and optimum utilization of living and other resources and the protection of other economic interests of the USSR in maritime areas adjacent to the coast of the USSR, taking into consideration the relevant provisions of the United Nations Convention on the Law of the Sea designed to establish a uniform régime of economic zones, and with the aim of promoting the implementation of those provisions, the Presidium of the Supreme Soviet of the USSR determines:

1. In maritime areas beyond and adjacent to the territorial waters (territorial sea) of the USSR, including areas surrounding islands belonging to the USSR, there shall be established an economic zone of the USSR, the outer limit of which shall be situated at a distance of 200 nautical miles measured from the same baselines as the territorial waters (territorial sea) of the USSR.

The delimitation of the economic zone between the USSR and States with coasts opposite or adjacent to the coast of the USSR shall be effected, taking into account the legislation of the USSR, by agreement on the basis of international law, in order to achieve an equitable solution.

2. In its economic zone, provided for in article 1 of this Decree, the USSR shall have:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, situated on the sea-bed, in its subsoil and in the superjacent waters;

(b) sovereign rights with regard to other activities for the economic exploration and exploitation of the zone;

(c) jurisdiction with regard to:

(1) the establishment and use of artificial islands, installations and structures;
(2) marine scientific research; and
(3) the protection and preservation of the marine environment;

(d) other rights provided for in this Decree, in other relevant legislative instruments of the USSR and in the generally recognized norms of international law.

The rights and jurisdiction set out in this article with respect to the sea-bed of the economic zone and its subsoil shall be exercised in accordance with the legislation of the USSR concerning the continental shelf of the USSR.

3. The USSR shall exercise the rights stemming from its primary interest in and responsibility for anadromous stocks of fish which originate in its rivers.

The competent Soviet authorities shall ensure the conservation of such anadromous stocks by the adoption of appropriate measures and by the establishment of rules regulating their fishing, including the establishment of total allowable catches, both in its economic zone and beyond the limits of the zone.

The USSR shall ensure compliance with the measures and rules pertaining to anadromous stocks beyond the limits of its economic zone on the basis of treaties between the USSR and other interested States.

Fishing by other States of anadromous stocks originating in the rivers of the USSR, beyond the outer limits of the economic zone of the USSR, shall be conducted on the basis of treaties between the USSR and other interested States concerning the terms and conditions of such fishing, giving due regard to the conservation requirements and the needs of the USSR in respect of such stocks.

The terms and conditions of the utilization and conservation of anadromous stocks originating in the rivers of the USSR shall be determined by the Council of Ministers of the USSR.

4. In the economic zone of the USSR, all States, whether coastal or land-locked, shall enjoy, subject to the provisions of this Decree and other relevant legislative instruments of the USSR, as well as the generally recognized norms of international law, the freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to those freedoms.

5. The USSR shall ensure the optimum utilization of fish and other living resources in its economic zone through proper conservation and management measures, taking into account the best scientific evidence and, where appropriate, in co-operation with the competent international organizations.

To this end, for instance, the competent Soviet authorities shall determine annually the total allowable catch of every species of fish and other living resources and the portion of this catch to which access may be granted to foreign States, and shall take measures to ensure rational conduct of fishing, conservation and reproduction of living resources as well as their protection, including inspection, detention and arrest of ships.

The terms and conditions of the utilization and protection of fish and other living resources of the economic zone of the USSR shall be determined by the Council of Ministers of the USSR.

6. The harvesting of fish and other living resources, as well as research, exploration and other operations connected with such harvesting, hereinafter referred to as "fishing", may be performed by foreign juridical or natural persons in the economic zone of the USSR only on the basis of international treaties or other agreements between the USSR and the foreign States concerned.

Foreign juridical or natural persons engaging in fishing in the economic zone of the USSR in accordance with the first paragraph of this article shall comply with the measures for the conservation of living resources and the other provisions and conditions established by this Decree, by other relevant legislative instruments of the USSR and by the rules adopted on the basis thereof.

7. In the economic zone of the USSR, the USSR shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of any artificial islands and any kind of installations and structures for the purpose of conducting scientific research in its economic zone, as well as for the exploration and exploitation of its natural resources and for other economic purposes. This right shall also cover the construction, operation and use of installations and structures which may interfere with the exercise of the rights of the USSR in the economic zone.

The USSR 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.

Around such artificial islands, installations and structures, safety zones shall be established wherever necessary, which 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. The competent Soviet authorities shall determine in these zones the appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

Soviet organizations, foreign States and their juridical or natural persons responsible for the maintenance and operation of the above mentioned artificial islands, installations and structures shall provide for the maintenance in good working order of permanent means for giving warning of their presence. Any installations, structures and equipment which are abandoned or disused shall be removed as soon as possible and to such an extent as to create no obstacle to navigation and fishing and no danger of polluting the marine environment.

The construction of artificial islands, the erection of installations and structures, the establishment of safety zones around them, as well as the complete or partial liquidation of these installations and structures, shall be announced in "Notices to Mariners".

8. Marine scientific research in the economic zone of the USSR shall be carried out in accordance with the legislation of the USSR and in accordance with the international treaties concluded by the USSR.

Marine scientific research in the economic zone of the USSR may be carried out by foreign States and competent international organizations only with the consent of the competent Soviet authorities. In normal circumstances, the competent Soviet authorities shall grant their consent for marine scientific research by foreign States in the economic zone of the USSR on condition that this research is carried out exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind.

Such consent may be withheld if the marine scientific research:

(1) is of direct significance for the exploration and exploitation of the natural resources of the economic zone of the USSR, whether living or non-living;

(2) involves drilling into the sea-bed of the economic zone, the use of explosives or the introduction of harmful substances into the marine environment;

(3) involves the construction, operation or use of artificial islands, installations and structures.

Foreign States and competent international organizations which intend to undertake marine scientific research in the economic zone of the USSR shall, not less than six months in advance of the expected starting date of the research, provide the competent Soviet authorities with complete information about the planned research.

If the information provided in accordance with the fourth paragraph of this article is inaccurate, or if the foreign State and the competent international organization carrying out the research have outstanding obligations towards the USSR stemming from previous marine scientific research, the competent Soviet authorities may withhold consent for such research.

9. Foreign States and competent international organizations shall be obliged, while carrying out marine scientific research in the economic zone of the USSR:

(1) to ensure the right of Soviet representatives to participate in the marine scientific research, especially on board research vessels and other craft or scientific research installations;

(2) to provide the competent Soviet authorities, at their request, with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;

(3) to provide access for the competent Soviet authorities, at their request, to all data and samples derived from the marine scientific research and likewise to furnish them with data which may be copied and samples which may be divided without detriment to their scientific value;

(4) if requested, to provide the competent Soviet authorities with an assessment of such data, samples and research results;

(5) not to obstruct activity carried out in exercise of the sovereign rights and jurisdiction envisaged in articles 2 and 3 of this Decree;

(6) to inform the competent Soviet authorities immediately of any major change in the research programme;

(7) unless otherwise agreed, to remove as quickly as possible the scientific research installations or equipment once the research is completed.

10. Marine scientific research in the economic zone of the USSR which is not being conducted in accordance with the information communicated under article 8 of this Decree, or which violates the provisions of article 9 of this Decree, may be suspended by the competent Soviet authorities. Resumption of the research shall be permitted only after the elimination of the violations committed and the receipt of guarantees that such violations will not occur in future.

Marine scientific research in the economic zone of the USSR conducted without the consent of the competent Soviet authorities, or with a deviation from the information communicated under article 8 of this Decree which amounts to a major change in the original research project, shall be liable to immediate termination.

11. The terms and conditions for the carrying out of marine scientific research, for the construction of artificial islands, for the erection, maintenance, operation, protection and removal of installations, structures and safety zones around them, as well as for the issue of permits for the execution of all the aforementioned work in the economic zone of the USSR, shall be established by the Council of Ministers of the USSR.

12. The prevention, reduction and control of pollution of the marine environment arising out of or connected with activity in the economic zone of the USSR shall be effected in accordance with the legislation of the USSR, as well as with international treaties concluded by the USSR.

13. With regard to particular clearly defined areas of the economic zone of the USSR, where the establishment of special mandatory measures for the prevention of pollution from vessels is required for technical reasons in relation to their oceanographical and ecological conditions, as well as their utilization or the protection of their resources and the particular character of their traffic, such measures, including those relating to navigational practice, may be established by the Council of Ministers of the USSR in areas determined by it. The limits of such special areas shall be published in "Notices to Mariners".

14. The competent Soviet authorities may, in the manner determined by the legislation of the USSR, establish regulations for the prevention, reduction and control of pollution of the marine environment, and also for the safety of navigation, and enforce such regulations in ice-covered areas possessing special natural characteristics, where pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance.

15. Where there are clear grounds for believing that a vessel navigating in the territorial waters (territorial sea) of the USSR or in the economic zone of the USSR has, in that zone, committed a violation of the legislation mentioned in articles 12 to 14 of this Decree or of applicable international rules for the prevention, reduction and control of pollution of the marine environment from vessels, the competent Soviet authorities may:

(1) require the vessel to give the information necessary to establish whether a violation has occurred;

(2) undertake an inspection of the vessel in connection with the violation, if it has resulted in a susbstantial discharge of polluting substances causing or threatening significant pollution of the marine environment and if, at the same time, the vessel has refused to give the necessary information or the information is at variance with the evident factual situation.

Where there is clear objective evidence that a vessel navigating in the territorial waters (territorial sea) of the USSR or in the economic zone of the USSR has, in that zone, committed a violation of the laws and regulations mentioned in the first paragraph of this article through a discharge of polluting substances causing major damage or threat of major damage to the coastline of the USSR, to interests relating to that coastline or to any resources of the territorial waters (territorial sea) of the USSR or of the economic zone of the USSR, proceedings may be instituted in respect of this violation, including detention of the vessel in accordance with the laws of the USSR.

When a foreign vessel enters a Soviet port, the competent Soviet authorities may institute proceedings in respect of any violation of the laws or regulations mentioned in the first paragraph of this article committed by the vessel in the economic zone of the USSR.

The procedure for the exercise by the competent Soviet authorities of the rights provided for in this article shall be determined by the Council of Ministers of the USSR.

16. Dumping within the limits of the economic zone of the USSR of wastes or other materials and objects shall be carried out only with the permission and under the control of the competent Soviet authorities. The terms and conditions for dumping and for the issue of such permits shall be determined by the Council of Ministers of the USSR.

17. If a collision of vessels, the stranding of a vessel or other maritime casualty occurring in the economic zone of the USSR or beyond its outer limits, or acts relating to such a casualty may result in major harmful consequences for the coastline of the USSR and related interests, including fishing, the competent Soviet authorities shall be entitled, pursuant to international law, to take the necessary measures proportionate to the actual or threatened damage, with the aim of preventing pollution or threat of pollution.

18. Where there is good reason to believe that a foreign ship has violated the provisions of this Decree or of other relevant legislative instruments of the USSR, and when it attempts to flee, the right to pursue the offender with a view to making an arrest and subsequently establishing liability shall be exercised in the manner established by the competent Soviet authorities. Such pursuit shall commence when the offending ship or one of its boats is within the limits of the economic zone of the USSR, after a signal to stop has been given, and shall cease as soon as the ship pursued enters the territorial waters (territorial sea) of its own country or of any third State.

19. Persons guilty of:

(1) illegal exploration or exploitation of the natural resources of the economic zone of the USSR;

(2) illegal removal, for the purpose of dumping within the limits of the economic zone of the USSR, from vessels and other floating devices, from aircraft or from artificial islands constructed in the sea, from installations and structures of substances harmful to human health or to the living resources of the sea, or of other wastes, materials and objects which may harm or obstruct lawful forms of utilization of the sea;

(3) pollution of the marine environment resulting from the illegal discharge in the economic zone of the USSR from vessels and other floating devices, from aircraft or from artificial islands constructed in the sea, from installations and structures of substances harmful to human health or to the living resources of the sea, of compounds containing such substances in amounts exceeding established norms, or of other wastes, materials and objects which may harm recreational zones or prevent other lawful forms of utilization of the sea;

(4) pollution of the marine environment directly resulting from drilling or other types of work for the exploration or exploitation in the economic zone of the USSR of the mineral resources of the sea-bed;

(5) other violations of regulations pertaining to the prevention, reduction and control of pollution of the marine environment in the economic zone of the USSR;

(6) the conduct in the economic zone of the USSR of marine scientific research without the consent of the competent Soviet authorities;

(7) the creation of artificial islands, the construction of installations and structures in the economic zone of the USSR, as well as the establishment of safety zones around them, without the required permission;

(8) failure to provide installations and other structures in the economic zone of the USSR with permanent means for giving warning of their presence, violation of regulations concerning the maintenance of those means in good working order and of regulations concerning the removal of installations and structures, the operation of which has finally ceased, as well as violations of other provisions of this Decree as connected with the performance of obligations stemming from international treaties concluded by the USSR,

shall be liable to measures of administrative punishment consisting of a fine of up to 10,000 roubles imposed at the place where the violation was discovered.

If the said violations have caused substantial damage or other major consequences, or if they have been repeated, those guilty shall be liable to a fine of up to 100,000 roubles, imposed by the regional (urban) people's court. In cases of violations provided for in subparagraghs 1, 6 and 7 of the first paragraph of this article, the court may order, as an additional administrative penalty, the confiscation of the vessel, installations, fishing implements, equipment, instruments and other objects which were used by the offender, as well as of everything illegally harvested.

In cases of arrest or detention of foreign vessels, the competent Soviet authorities shall promptly notify the flag State of the action taken and of any penalties subsequently imposed. Detained vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.

20. Persons guilty of violations covered by article 19 of this Decree shall bear administrative liability, unless such violations by their nature entail criminal liability in accordance with the current legislation of the USSR.

21. The adoption of the administrative measures provided for in this Decree shall not absolve offenders from compensating for damage caused by them to living and other resources of the economic zone of the USSR, in accordance with the existing legislation of the USSR.

22. The procedure for the protection of the economic zone of the USSR shall be established by the Council of Ministers of the USSR.

23. This Decree shall enter into force on 1 March 1984.

24. The following are suspended:

Decree dated 10 December 1976 of the Presidium of the Supreme Soviet of the USSR "On Provisional Measures to Conserve Living Resources and Regulate Fishing in the Sea Areas Adjacent to the Coast of the USSR" (Gazette of the Supreme Soviet of the USSR, 1976, No. 50, page 728; 1982, No. 15, page 238);

Resolution dated 22 March 1977 of the Presidium of the Supreme Soviet of the USSR on the procedure for the implementation of article 7 of the Decree of the Presidium of the Supreme Soviet of the USSR "On Provisional Measures to Conserve Living Resources and Regulate Fishing in the Sea Areas Adjacent to the Coast of the USSR" (Gazette of the Supreme Soviet of the USSR, 1977, No. 13, page 217).

25. The Council of Ministers of the USSR shall bring the decisions of the Government of the USSR into line with this Decree.

M. DEEP SEABED MINING

Deepsea Ventures, Inc.: Notice of Discovery and Claim of Exclusive Mining Rights, and Request for Diplomatic Protection and Protection of Investment (with exhibits B-E), November 14, 1974*

* 14 I.L.M. 51 (1975).

DEEPSEA VENTURES, INC.: NOTICE OF DISCOVERY AND CLAIM OF EXCLUSIVE MINING RIGHTS, AND REQUEST FOR DIPLOMATIC PROTECTION AND PROTECTION OF INVESTMENT*
[Filed, November 15, 1974]

The Honorable Henry A. Kissinger
Secretary of State
U.S. Department of State
2201 C Street
Washington, D.C. 20520

November 14, 1974

Notice of Discovery and Claim of Exclusive Mining Rights, and Request for Diplomatic Protection and Protection of Investment, by Deepsea Ventures, Inc.

My dear Mr. Secretary:

Deepsea Ventures, Inc., a Delaware corporation having its principal place of business in the County of Gloucester, The Commonwealth of Virginia, U.S.A., respectfully makes of record, by filing with your office this Notice of Discovery and Claim of Exclusive Mining Rights and Request for Diplomatic Protection and Protection of Investment, by Deepsea Ventures, Inc. (hereinafter "Claim"), as authorized by its Board of Directors by resolution dated 30 October 1974, a certified copy of which is annexed hereto as Exhibit A. [not reproduced]

Notice of Discovery and Claim of Exclusive Mining Rights

Deepsea Ventures, Inc., (hereinafter "Deepsea"), hereby gives public notice that it has discovered and taken possession of, and is now engaged in developing and evaluating, as the first stages of mining, a deposit of seabed manganese nodules (hereinafter "Deposit"). The Deposit, illustrated by

*[Reproduced from the text provided to International Legal Materials by Deepsea Ventures, Inc. The Notice was filed in the office of the U.S. Secretary of State on November 15, 1974. An original was also filed and recorded as: (1) Deed Poll #1659 in the Office of the Clerk of the Circuit Court of Gloucester County, Virginia on November 15, 1974; and (2) Deed Poll #02421 in the Office of the Recorder of New Castle Country, Delaware on November 22, 1974. Copies were also sent to the addressees listed in Exhibit E at I.L.M. page 63.

[As of January 15, 1975, there had been two responses to the notice: (1) a U.S. Department of State statement made available in response to press inquiries, and (2) a response from the Embassy of Canada at Washington, D.C. These appear respectivaly at I.L.M. pages 66 and 67. As other responses become available, I.L.M. will attempt to carry the text.

[The Opinion of the Law Offices of Northcutt Ely on "International Law Applicable to Deepsea Mining", submitted to Deepsea Ventures, Inc. on November 14, 1974, is available at the Library of the American Society of International Law.]

the sketch annexed as Exhibit B, is encompassed by, and extends to, lines drawn between the coordinates numbered in series below, as follows: [I.L.M. page 57]

From:

(1) Latitude 15°44' N Longitude 124°20'W

A line drawn West to:

(2) Latitude 15°44' N Longitude 127°46' W

And thence South to:

(3) Latitude 14°16' N Longitude 127°46' W

And thence East to:

(4) Latitude 14°16' N Longitude 124°20' W

and thence North to the point of origin.

These lines include approximately 60,000 square kilometers for purposes of development and evaluation of the Deposit encompassed therein, which area will be reduced by Deepsea to 30,000 square kilometers upon expiration of a term of 15 years (absent force majeure) from the date of this notice or upon commencement (absent force majeure) of commercial production from the Deposit, whichever event occurs first. The Deposit lies on the abyssal ocean floor, in water depths ranging between 2300 to 5000 meters and is more than 1000 kilometers from the nearest island, and more than 1300 kilometers seaward of the outer edge of the nearest continental margin. It is beyond the limits of seabed jurisdiction presently claimed by any State. The overlying waters are, of course, high seas.

The general area of the Deposit was identified in August of 1964 by the predecessor in interest of Deepsea, and the Deposit was discovered by Deepsea on August 31, 1969.

Further exploration, evaluation, engineering development and processing research have been carried out to enable the recovery of the specific manganese nodules of the Deposit and the production of products and byproducts therefrom.

The work done, and in progress, is summarized in the annexed affidavits, Exhibits C and D. [I.L.M. pages 58 and 61]

Deepsea, or its successor in interest, will commence commercial production from the Deposit within 15 years (absent force majeure) from the date of this Claim, and will conclude production therefrom within a period (absent force majeure) of

40 years from the date of commencement of commercial production whereupon the right shall cease.

Deepsea has been advised by Counsel, whose names appear at the end hereof, that it has validly established the exclusive rights asserted in this Claim under existing international law as evidenced by the practice of States, the 1958 Convention on the High Seas, and general rules of law recognized by civilized nations.

Deepsea asserts the exclusive rights to develop, evaluate and mine the Deposit and to take, use, and sell all of the manganese nodules in, and the minerals and metals derived, therefrom. It is proceeding with appropriate diligence to do so, and requests and requires States, persons, and all other commercial or political entities to respect the exclusive rights asserted herein. Deepsea does not assert, or ask the United States of America to assert, a territorial claim to the seabed or subsoil underlying the Deposit. Use of the overlying water column, as a freedom of the high seas, will be made to the extent necessary to recover and transport the manganese nodules of the Deposit.

Disturbance of the seabed and subsoil underlying the Deposit will be temporary and will be restricted to that unavoidably occasioned by recovery of the manganese nodules of the Deposit. To facilitate the United States of America's domestic policies and programs of environmental protection, Deepsea will provide, at no cost, reasonable space for U.S. Government representatives of the United States of America on vessels utilized by Deepsea in the development and evaluation of the Deposit. Deepsea does not intend to process at sea the manganese nodules from the Deposit.

It is Deepsea's intention, by filing this Claim in your office and in appropriate State recording offices, to publish this Claim and provide notice and proof of the priority of the right of Deepsea to the Deposit, and its title thereto.

A true copy of this Claim is being filed for recordation in the office of the Secretary of State of the State of Delaware, U.S.A., the State wherein Deepsea is incorporated, and on 15 November 1974 in the office of the Clerk of the Circuit Court of Gloucester County, Virginia, U.S.A., the county and Commonwealth of Deepsea's principal place of business. Copies of this Claim are also being provided to others, as specified in the annexed Exhibit E. [I.L.M. page 63]

We ask that this Claim, and all of the annexed Exhibits, be made available by your office for public examination.

Request for Diplomatic Protection and Protection of Integrity of Investment

Deepsea respectfully requests the diplomatic protection of the United States Government with respect to the exclusive mining rights described and asserted in the foregoing Claim, and any other rights which may hereafter accrue to Deepsea as a result of its activities at the site of the Deposit, and similar protection of the integrity of its investments heretofore made and now being undertaken, and to be undertaken in the future.

This request is made prior to any known interference with the rights now being asserted, and prior to any known impairment of Deepsea's investment. It is intended to give the Department immediate notice of Deepsea's Claim for the purpose of facilitating the protection of Deepsea's rights and investments should this be required as a consequence of any future actions of the United States Government or other States, persons, or organizations.

The protection requested accords with the assurances given on behalf of the Executive Department to the Congress of the United States, including those by Ambassador John R. Stevenson, by Honorable Charles N. Brower, and by Honorable John Norton Moore, as follows:

"The Department does not anticipate any efforts to discourage U.S. nationals from continuing with their current exploration plans. In the event that U.S. nationals should desire to engage in commercial exploitation prior to the establishment of an internationally agreed regime, we would seek to assure that their activities are conducted in accordance with relevant principles of international law, including the freedom of the seas and that the integrity of their investment receives due protection in any subsequent international agreement." Letter of January 16, 1970, from John R. Stevenson, Legal Advisor, Department of State, to Lee Metcalf, Chairman, Special Subcommittee on the Outer Continental Shelf, U.S. Senate, reproduced in Hearings before the Special Senate Subcommittee on the Outer Continental Shelf, 91st Cong., 1st and 2d Sess. at 210 (1970).

"At the present time, under international law and the High Seas Convention, it is open to anyone who has the capacity to engage in mining of the deep seabed subject to the proper exercise of high seas rights of other countries involved." Statement of Charles N. Brower, Hearings before the House Subcommittee on Oceanography of the Committee on Merchant Marine and Fisheries, 93d Cong., 1st Sess., at 50 (1974).

"It is certainly the position of the United States that the mining of the deep seabed is a high seas freedom and I think that would be a freedom today under international law. And our position has been that companies are free to engage in this kind of mining beyond the 200-meter mark subject to the international regime to be agreed upon, and of course, assured protection of the integrity of investment in that period." Statement of John Norton Moore, Hearings before the Senate Subcommittee on Minerals, Materials and Fuels, 93d Cong., 1st Sess., at 247 (1973).

The language of these extracts, and other statements similar to them made by these and other responsible officers of the Executive Branch is consistent with the Executive's continuing practice as reflected in a paragraph in President Taft's Message to the Congress of December 7, 1909, where he said:

"The Department of State, in view of proofs filed with it in 1906, showing American possession, occupation and working of certain coal-bearing lands in Spitzbergen /Spitzbergen was at that time recognized as being not subject to the territorial sovereignty of any State/ accepted the invitation under the reservation above stated/i.e., the questions of altering the status of the islands as countries belonging to no particular State and as equally open to the citizens and subjects of all States, should not be raised/ and under the further reservation that all interests in those islands already vested should be protected and that there should be equality of opportunity for the future." Annual Message of the President to Congress 7 December 1909, /1901/ For. Rels. of the U.S. IX at XIII (1914).

Deepsea has used its best efforts to ascertain that there are no pipelines, cables, military installations, or other activities constituting an exercise of freedom of the high seas in the area encompassing the Deposit or in the superjacent waters, with which Deepsea's operations might conflict. So far as is known, no claim of rights has been made by any State or person with respect to said Deposit or any other mineral resources in the area encompassing the Deposit and no State or person has established effective occupation of said area.

Initially, approximately 1.35 million wet metric tons of nodules will be recovered by Deepsea from the Deposit per year. In accord with market conditions, this may later be expanded to as much as 4 million wet metric tons per year recovered. Deepsea's processing and refining technology, successfully demonstrated in its pilot plant, will recover copper, nickel, cobalt, manganese, and other products, depending on

the market situation and competitive conditions. The recovered weight of the major four metals that the initial 1.35 million wet metric tons of nodules will yield per year will be approximately as shown in Column A below. Column B gives some indication of the dependency of the United States of America upon imports for these four metals.

	A Production Metric Tons	B Net U.S. Imports (1972) as a Percentage of U.S. Consumption
Nodules	1,350,000	---
Copper	9,150	9%
Nickel	11,300	71%
Cobalt	2,150	92%
Manganese	253,000	93%

The importance of these minerals to the economy of the United States does not require elaboration. It has been effectively expressed to the Congress by the Executive Branch.

For your information, the capital stock of Deepsea is at present wholly owned by nationals of the United States. Ninety per cent thereof is owned by Tenneco Corporation, a Delaware corporation, and the other ten per cent is owned by individuals, all of whom are United States citizens. At this date stock options are outstanding which, if all are exercised, will result in acquisition of the following percentages of ownership of Deepsea's capital stock by others:

23.75%: Essex Iron Company, a New Jersey corporation, a wholly owned subsidiary of United States Steel Corporation, a Delaware corporation.

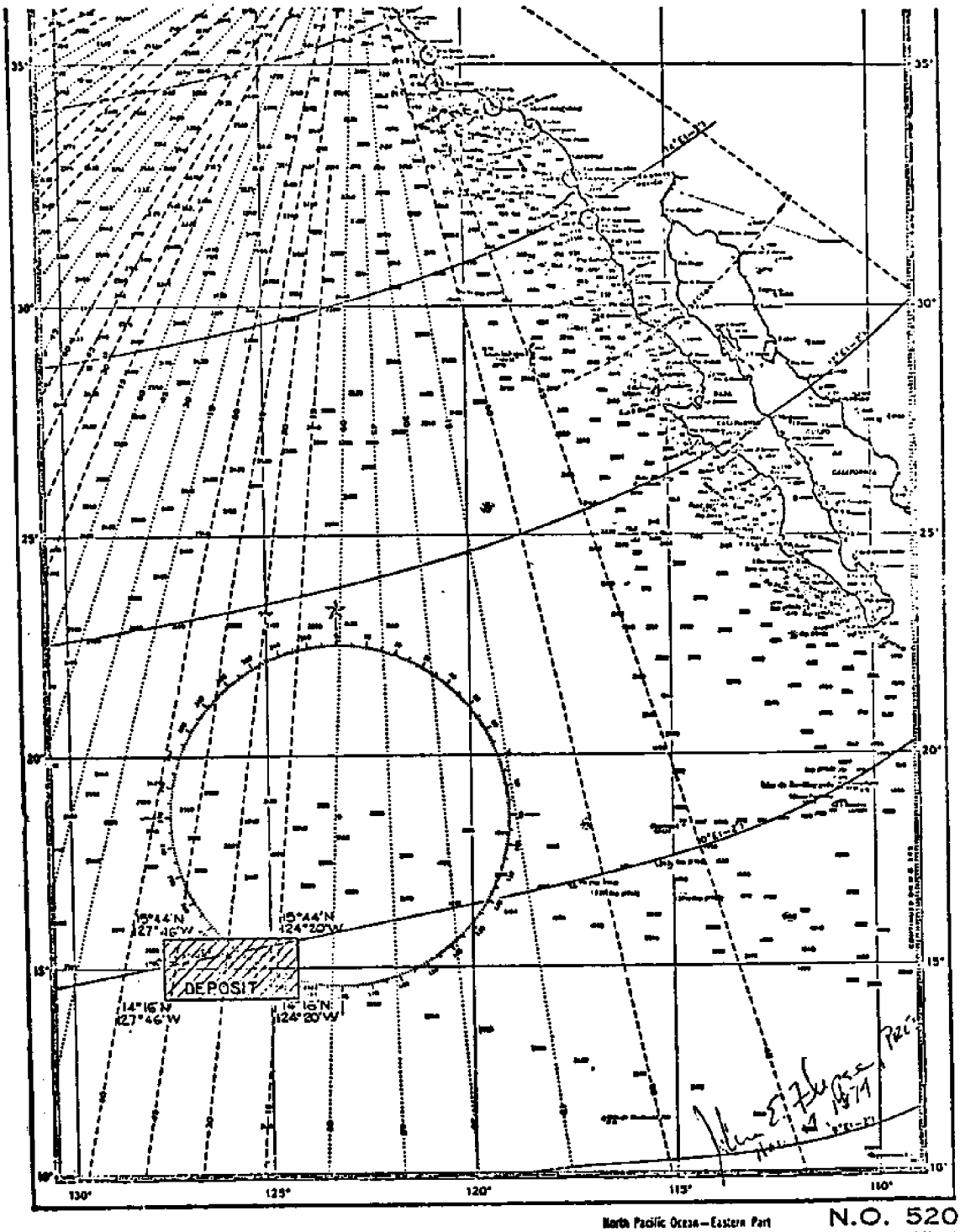
23.75%: Union Mines Inc., a Maryland corporation, a wholly owned subsidiary of Union Miniere, S.A., a Belgian corporation.

23.75%: Japan Manganese Nodule Development Co., Ltd., a Japanese corporation.

Respectfully,

DEEPSEA VENTURES, INC.[*]

*[The Notice was signed by John E. Flipse, President, and Northcutt Ely, L.F.E. Goldie, and R.J. Greenwald, as Counsel. The signature of the President was duly notarized.]



North Pacific Ocean—Eastern Part

N.O. 520

(Formerly H.O. 527)

EXHIBIT B

SWORN STATEMENT

DISTRICT OF COLUMBIA, ss:

John E. Flipse, being duly sworn, deposes that:

1. He resides at the Cove, Gloucester, Virginia, U.S.A., and that he is a citizen of the United States of America, and that he is 53 years of age.

2. He was, from September 1957 to October 1968, employed by the Newport News Shipbuilding and Dry Dock Company, a Delaware Corporation having its principal place of business in Newport News, Virginia, U.S.A.

3. From 1962 to October 1968, he was responsible for and directed the activities of the Research Division of Newport News Shipbuilding and Dry Dock Company and specifically the program of investigating the technical and economic feasibility of deep ocean manganese nodule mining as conducted by that Company, during which time he served in the capacity of Director of Research and Assistant to the President (among other responsibilities) with continuous control over said ocean mining program and was responsible for planning, operations, budgeting and obtaining corporate support during the conduct of said program.

4. He prepared the documentation and directed the transfer of the interest of Newport News Shipbuilding and Dry Dock Company to Deepsea Ventures, Inc., a Delaware Corporation, having its principal place of business in Gloucester County, Virginia, U.S.A., in September of 1968, during which month both companies became subsidiaries of Tenneco, Inc., a Delaware Corporation having its principal place of business in Houston, Texas, U.S.A. The assets of said ocean mining program including, but not limited to, the Research Vessel PROSPECTOR, the trip reports, engineering reports, designs, notebooks, files and rights to the patents developed prior to said transfer date, were transferred from Newport News Shipbuilding and Drydock Company to Deepsea Ventures, Inc., along with certain personnel knowledgeable in the technical and business aspects of the program.

5. From October 7, 1968, until this date, he has served as President of Deepsea Ventures, Inc., and directed the continuation and expansion of the transferred program to prove the technical and economic feasibility of deep ocean mining, said program including the prospecting and explo-

ration of the deep ocean floor of the Pacific Ocean, the development and testing of components and mining systems, and the development and testing of processes for winning the metals from manganese nodules, and he directed the preparation of summary resource data, engineering reports, filing of patent applications, and the economic analysis of a proposed commercial deep ocean mining system.

6. As a result of the foregoing activities, attention was concentrated in the California Seamount area of the Clarion Fracture Zone of the Baja California Oceanographic Province, identified during cruises of R/V PROSPECTOR (owned by Deepsea's predecessor in interest) during August 1964 and April/May 1965. Further cruises based thereon resulted, on August 31, 1969, at 1820 local time, in recovery of a particularly significant grab sample of nodules from a station at 15°28'N.Latitude 125°00.5'W. Longitude. Survey activity on this cruise continued as far south as 15°12.5'N., 125°02'W.

7. Since August 31, 1969, further surveys during 16 cruises, of three to four weeks duration each, have further defined the extent of the deposit discovered on that date. These activities included the taking of some 294 discrete samples, including the bulk dredging of some 164 tons of manganese nodules from some 263 dredge stations, 28 core stations and three grab sample stations, cutting of some 28 cores, approximately 1,000 lineal miles of survey of sea floor recorded by television and still photography, etc. As a result, the deposit of nodules (hereinafter "Deposit") identified with the discovery has been proved to extend generally throughout the entire area encompassed by lines drawn as follows:

From:
(1) Latitude 15°44'N. Longitude 124°20'W.
A line drawn West to:
(2) Latitude 15°44'N. Longitude 127°46'W.
And thence South to:
(3) Latitude 14°16'N. Longitude 127°46'W.
And thence East to:
(4) Latitude 14°16'N. Longitude 124°20'W.
And thence North to the point of origin;

including approximately 60,000 square kilometers, lying on the seabed of the abyssal ocean, in water depths between 2300 to 5000 meters. This Deposit is some 1300 kilometers from the nearest continental margin, and some 1000 kilometers from the nearest island.

8. Principal characteristics of the Deposit, based upon data acquired to date, are:

Average Assay, % (dry weight)	Manganese	29.0
	Nickel	1.28
	Copper	1.07
	Cobalt	0.25
	Iron	6.3
Average Population	30-40%	
Average Concentration	9.7 (wet) kg/meter^2	

9. It has been determined, after more than 10 years of exploration and survey, at-sea equipment testing and mineral and metal processing development, that deposits of manganese require tailoring the design of the mining and processing systems for each specific deposit, that geographic location, sea floor topography, sea floor sediment properties, nodule size, grade and concentration variation and nodule chemistry are sufficiently different so as to make a mining and processing system, which is based on one deposit, suffer important economic penalties if utilized for another deposit.

10. To this end dredge heads and mining systems have been designed by Deepsea Ventures, Inc., for the specific sediments, nodule properties, and water depths at, over and/or under the Deposit, and process design and pilot plant operations have been tailored to the nodules of grade and chemical composition of the manganese nodules in the Deposit. The cost to date of prospecting, exploration, design and test efforts required to identify and evaluate the potential of the Deposit has been approximately U.S. $20,000,000. Further exploration, evaluation, and development of the Deposit and associated facilities will consume some three years and cost between U.S. $22,000,000 and U.S. $30,000,000. Such further exploration, evaluation and development of the Deposit commenced on 1 November 1974.

11. Deepsea intends to commence commercial production of the Deposit within 15 years at an initial rate of approximately 1.35 million wet metric tons of manganese nodules per year, which rate may be expanded according to market conditions to as much as 4 million wet metric tons per year. The Company intends to process said nodules at a land-based processing plant which will yield as the products thereof copper, nickel, cobalt and manganese and other products.

[signed by]

John E. Flipse[*]
President
Deepsea Ventures, Inc.

*[The signature was duly notarized.]

SWORN STATEMENT

COMMONWEALTH OF VIRGINIA, U.S.A.)
) ss:
COUNTY OF GLOUCESTER)

Raymond Kaufman, being duly sworn, deposes that:

1. He resides at 112 Cove Road, Williamsburg, Virginia, U.S.A., and that he is a citizen of the United States of America, and that he is 48 years of age.

2. From December 1968 to 15 November 1974, he served as Vice President Technical to Deepsea Ventures, Inc., a Delaware Corporation having its principal place of business in Gloucester County, Virginia, U.S.A.

3. During this period he directed the technical activities of Deepsea Ventures, Inc., associated with ocean mineral deposit prospecting and surveying, mining equipment development and mineral processing development.

4. Commencing November 1, 1974, he has directed and will direct a technical program of Deepsea Ventures, Inc., to develop and evaluate a potential Pacific Ocean manganese nodule deposit described in the affidavit of Mr. John E. Flipse, dated November 15, 1974 (hereinafter "Deposit"), which will take and use from 1.35 to 4 million wet metric tons of manganese nodules per year for a 40-year period. This development and evaluation program will be accomplished in three principal phases:

Phase I - Deposit Evaluation

The objective of this Phase is to confirm that the Deposit contains sufficient ore reserves in a favorable oceanographic environment to support the mining and processing operation for a period of 40 years. Phase I is being conducted over an approximate three-year period and will require 15 to 30 course grid survey cruises by the Company's R/V PROSPECTOR to acquire the data required to assess the economic potential of the Deposit. The acquisition of bulk samples from the Deposit will be achieved as a product of a pilot-scale minin ship/system test to be conducted on the Deposit. The estimated expenditure on activities directly related to, or at the site of, the Deposit during Phase I will be approximately U.S. $22,000,000 to U.S. $30,000,000. Subsequent evaluations of the Deposit will be conducted to define technical details necessary for mining.

Phase II - Initial Mine Development

The objective of this Phase (which may commence during Phase I above) is to develop a detailed plan to mine the Deposit effectively. This will require a comprehensive fine grid survey effort to map the sea floor, to provide topographical maps with a contour interval approaching one to ten meters, to locate obstructions and to determine ore distribution, concentration and assay variations for use in developing an effective mining plan for the Deposit. The work will be accomplished over a three-year period during which time data will be acquired, reduced, analyzed and evaluated. Due to the very large areas involved, the detailed fine grid survey of the entire Deposit will be completed in Phase III (below). The survey and analysis work in Phase II will be conducted over an area sufficient to provide ore for about three years mining at rates of 1.35 million wet metric tons of manganese nodules per year. The anticipated expenditure at the site of the Deposit is U.S. $10,000,000 to U.S. $15,000,000 during the first three years of Phase II.

Phase III - Incremental Mine Development/Reconnaissance Surveys during Commercial Production

The principal objective of this Phase is to continue the fine grid mining plan development, while concurrently mining successive tracts of a size blocked out as described in connection with Phase II. Mapping will proceed at a rate needed to provide mining data for at least one year's activity about three years in advance of the actual mining. In addition, a secondary objective of this Phase is to conduct broad area reconnaissance and prospecting surveys aimed at discovering additional ore bodies for future growth and expansion. This work will be undertaken as a continuing activity over the whole period of exploitation and production.

5. The survey and mine site development and evaluation program is one segment of an ocean mining technical development project which also includes the development of the mining, transportation and support, and ore processing segments. The technical and economic development of these elements is critically related to the properties of the specific deposit regarding sea floor engineering parameters, terrain, water depth, nodule character, distribution and assay, geographic location and chemical composition. The Phase I and Phase II expenditures previously referred to, do not include the costs of production mining equipment, ships, terminals, or processing plants. These latter costs are currently projected to exceed U.S. $120,000,000, and are scheduled to commence on completion of Phase 1.

6. Deepsea intends to mine the Deposit at an initial rate of approximately 1.35 million wet metric tons of manganese

nodules per year, which rate may be expanded to as much as 4 million wet metric tons per year. The Company intends to process said nodules at a land-based processing plant which will yield as the products thereof copper, nickel, cobalt and manganese and other products.

[signed by]
Raymond Kaufman [*]
Vice President
Deepsea Ventures, Inc.

*[The signature was duly notarized.]

NOTICE LIST

True copies of the "Notice of Discovery and Claim of Exclusive Mining Rights and Request for Diplomatic Protection and Protection of Investment, by Deepsea Ventures, Inc.", dated 14 November 1974, to which this notice list is appended as Exhibit E, shall be mailed by certified or registered airmail, return recept requested, postage and certification or registration fee prepaid, by Deepsea Ventures, Inc. to each addressee listed in this Exhibit E. In addition, legal notice shall be published in as many of the following locations as is possible and practicable: Washington, D. C., U.S.A.; London, United Kingdom; Bonn, Germany; Paris, France; Moscow, U.S.S.R.; Tokyo, Japan; Ottawa, Canada; Brussels, Belgium; Caracas, Venezuela; Monrovia, Liberia; Singapore; New Delhi, India; Canberra, Australia; Tai Pei, Taiwan; Gloucester Point, Virginia; and Wilmington, Delaware.

THE HONORABLE FREDERICK B. DENT
Secretary of Commerce
The Department of Commerce
Fourteenth St., Between Constitution Ave. & E St., N.W.
Washington, D. C. 20230

THE HONORABLE JAMES R. SCHLESINGER
Secretary of Defense
The Department of Defense
The Pentagon
Washington, D. C. 20301

THE HONORABLE ROGERS C.B. MORTON
Secretary of Interior
The Department of Interior
C St., Between 18th and 19th Streets, N. W.
Washington, D. C. 20240

THE HONORABLE WILLIAM E. SIMON
Secretary of the Treasury
The Department of the Treasury
Fifteenth St. and Pennsylvania Ave., N.W.
Washington, D. C. 20220

THE HONORABLE HENRY A. KISSINGER
Assistant to The President for National Security Affairs
National Security Council
Executive Office Building
Washington, D. C. 20506

THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
c/o Senator Henry M. Jackson, Chairman
Room 137, Old Senate Office Building
Washington, D. C. 20510

THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
Subcommittee on Minerals, Materials, and Fuels
c/o Senator Lee Metcalf, Chairman
Room 427, Old Senate Office Building
Washington, D. C. 20510

THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES
c/o Representative Leonor K. Sullivan, Chairman
Room 2221, Rayburn House Office Building
Washington, D. C. 20515

THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES
Subcommittee on Oceanography
c/o Representative Thomas N. Downing, Chairman
Room 2135, Rayburn House Office Building
Washington, D. C. 20151

EXHIBIT E

THE HONORABLE H. GUYFORD STEVER
Director
National Science Foundation
1800 G Street, N. W.
Washington, D. C. 20550

THE HONORABLE KURT WALDHEIM
Secretary General of the United Nations
The United Nations
United Nations, New York 10017

DR. MAURICE RATTRAY
Head, Department of Oceanography
University of Washington
Seattle, Washington 98195

DR. JOHN P. CRAVEN
Dean of Marine Programs
University of Hawaii
Honolulu, Hawaii

DR. W. A. NIERENBERG
Dean and Director
Scripps Institution of Oceanography
P. O. Box 109
La Jolla, California 92037

MR. MANIK TALWANI (Interim Director)
Department of Geology
Lamont Doherty Geological Observatory
Columbia University
New York, New York 10027

DR. PAUL M. FYE
President & Director
Woods Hole Oceanographic Institute
Woods Hole, Massachusetts 02543

OFFICE OF THE AMBASSADOR
Embassy of AUSTRALIA
1601 Massachusetts Avenue
Washington, D. C. 20036

OFFICE OF THE AMBASSADOR
Embassy of BELGIUM
3330 Garfield Street
Washington, D. C. 20008

OFFICE OF THE AMBASSADOR
Embassy of BULGARIA
2100 Sixteenth Street
Washington, D. C. 20009

OFFICE OF THE AMBASSADOR
Embassy of CANADA
1746 Massachusetts Avenue
Washington, D. C. 20036

OFFICE OF THE AMBASSADOR
Embassy of CZECHOSLOVAKIA
3900 Linnean Avenue
Washington, D. C. 20008

OFFICE OF THE AMBASSADOR
Embassy of FRANCE
2535 Belmont Road
Washington, D. C. 20008

OFFICE OF THE AMBASSADOR
Embassy of FEDERAL REPUBLIC OF GERMANY
4645 Reservoir Road
Washington, D. C. 20007

OFFICE OF THE AMBASSADOR
Embassy of GREAT BRITAIN
3100 Massachusetts Avenue
Washington, D. C. 20008

OFFICE OF THE AMBASSADOR
Embassy of HUNGARY
2437 Fifteenth Street
Washington, D. C. 20009

OFFICE OF THE AMBASSADOR
Embassy of JAPAN
2520 Massachusetts Avenue
Washington, D. C. 20008

OFFICE OF THE AMBASSADOR
Embassy of POLAND
2640 Sixteenth Street
Washington, D. C. 20009

OFFICE OF THE AMBASSADOR
Embassy of UNION OF SOVIET SOCIALIST REPUBLICS
1125 Sixteenth Street
Washington, D. C. 20036

TENNECO OCEAN METALS DEVELOPMENT CORPORATION
c/o Tennoco Corporation
P. O. Box 2511
Houston, Texas 77001
ATTN: Mr. S. Askin, President

JAPAN MANGANESE NODULE DEVELOPMENT CO., LTD.
c/o Nichimen Co., Ltd.
Natural Resources Development Division
11-1, Nihonbashi, 3-chome,
Chuo-ku, Tokyo, JAPAN 103
ATTN: Mr. S. Hiraoka, Executive Vice President (JNE

Japan Cotton Company
(Nichimen Co., Ltd.)
P. O. Box 1247
Dallas, Texas 75221
ATTN: Mr. H. Nakahara, President

C. Itoh & Co., Ltd.
Mineral Resources Development Department
4, 2-chome, Hon-cho Nihonbashi
Chuo-ku, Tokyo, JAPAN

Kanematsu-Gosho Ltd.
Non-Ferrous Metals Department
5, Takara-cho 2-chome, Chuo-ku
Tokyo, JAPAN

UNION MINES, INC.
c/o Union Miniere
Dept. Investissements
Rue de la Chancellerie 1
B-1000, Brussels, BELGIUM

E. H. Tuck, Esq.
Shearman & Sterling
53 Wall Street
New York, New York 10005

BETHLEHEM IRON COMPANY
Room 2706
600 Grant Street
Pittsburgh, Pennsylvania 15230
ATTN: Mr. Phillips Hawkins, President

AMAX, INC.
1270 Avenue of The Americas
New York, New York 10020
ATTN: Mr. D. J. Donahue, President

AMERICAN SMELTING & REFINING COMPANY
120 Broadway
New York, New York 10005
ATTN: Mr. R. L. Hennebach, President

ARBEITSGEMEINSCHAFT MEERESTECHNISCH GEWINNBARE ROHSTOFFE
D-300 Hannover 1, Postfach 4827
Arnstrasse 1
FEDERAL REPUBLIC OF GERMANY

THE BROKEN HILL PROPRIETARY CORP., LTD.
Central Research Laboratories
Shortland, N.S.W. 2307, AUSTRALIA
ATTN: Dr. J. B. Lean, Research Manager

CNEXO (CENTRE NATIONAL POUR L'EXPLORATION DES OCEANS)
Centre Oceanologique de Bretagne
B. P. 337
Brest 29N., FRANCE
ATTN: Mr. Charles Christian Charles

CONSOLIDATED GOLD FIELDS LIMITED
49 Moorgate
London EC2R 6BQ, ENGLAND
ATTN: Mr. J. D. McCall, Chairman

DEMAG AG
41 Duisburg
Wolfgang-Reuter-Platz
FEDERAL REPUBLIC OF GERMANY
ATTN: Dr. H. G. Sohl, Chairman

DEEP OCEAN MINING ASSOCIATION
c/o Sumitomo Metal Mining Company, Ltd.
5-11-3, Shinbashi, Minatoku
Tokyo, 105, JAPAN
ATTN: Mr. Kenjiro Kawakami, Chairman

DEEP OCEAN MINING ASSOCIATION
c/o Sumitomo Metal Mining Company, Ltd.
5-11-3, Shinbashi, Minatoku
Tokyo, 105, JAPAN
ATTN: Mr. Shō Takano, Secretariat

DOME MINES, LTD.
360 Bay St., Suite 702
Toronto, Ontario, CANADA
ATTN: Mr. J. B. Redpath, President

ETHYL CORPORATION
330 S. Fourth Street
Richmond, Virginia 23219
ATTN: Mr. B. C. Gottwald, President

GENERAL CRUDE OIL COMPANY
Box 2252
Houston, Texas 77001
ATTN: Mr. D. E. Montague, President

GLOBAL MARINE INC.
Global Marine House
811 West Seventh Street
Los Angeles, California 90017
ATTN: Mr. R. F. Bauer, Chairman of the Board

INTERNATIONAL NICKEL COMPANY OF CANADA, LTD.
Toronto-Dominion Centre
King & Bay Streets
Ontario, CANADA
ATTN: Mr. J. E. Carter, President

KENNECOTT COPPER CORPORATION
161 East 42nd Street
New York, New York 10017
ATTN: Mr. F. R. Milliken, President

LOCKHEED MISSILES & SPACE COMPANY, INC.
Sunnyvale, California 94088
ATTN: Mr. Stanley W. Burriss, President

MARUBENI
3-3, Hommachi
Higashiku, Osaka 541, JAPAN
ATTN: Mr. Hiro Hiyama, President

MESSERSCHMITT-BÖLKOW-BLOHM GMBH
8012 OTTOBRUNN BEI MÜNCHEN
FEDERAL REPUBLIC OF GERMANY
ATTN: Office of the Chairman

METALLGESELLSCHAFT AKTIENGESELLSCHAFT
D-6000 Frankfurt 1
P. O. Box 3724
Reuterweg 2-32
FEDERAL REPUBLIC OF GERMANY
ATTN: Mr. H. Ley, Chairman

MITSUBISHI CORPORATION
2-6-3, Marunouchi
Chiyodaku, Tokyo 100, JAPAN
ATTN: Chujiro Fujino, President

MITSUI & COMPANY
1-2-9, Nishi-Shinbashi
Minatoku, TOKYO 105
ATTN: Mr. Yoshizo Ikeda, President

NL INDUSTRIES, INC. (formerly National Lead)
111 Broadway
New York, New York 10006
ATTN: Mr. R. C. Adam, President

NORANDA MINES, LTD.
Bank of Nova Scotia Bldg.
44 King Street W.
Toronto 1, CANADA
ATTN: Mr. A. Powis, President

RHEINISCHE BRAUNKOHLENWERKE AKTIENGESELLSCHAFT
D-5000 Köln 1
P. O. Box 10 10 66
Konrad-Adenauer-Ufer 55
FEDERAL REPUBLIC OF GERMANY
ATTN: Office of the Chairman

RIO TINTO-ZINC CORP. LTD.
6 St. James' Square
London SW1Y 4LD, ENGLAND
ATTN: Sir J.N.V. Duncan OBE, Chairman

SALZGITTER AKTIENGESELLSCHAFT
D-3320 Salzgitter 41
P. O. Box 41 11 29
FEDERAL REPUBLIC OF GERMANY
ATTN: Office of the Chairman

SUNDA CORPORATION
Ocean Mining Division
P. O. Box 99006
Houston, Texas 77011
ATTN: Mr. F. G. Reeve, General Manager

SUMITOMO OCEAN DEVELOPMENT & ENGINEERING CO., LTD.
2-2, 1-chome, Kitasubashi
Chiyoda-ku, Tokyo, JAPAN
ATTN: Mr. J. Tamura, Managing Director

SUMITOMO SHOJI KAISHA, LTD.
5-15, Kitahama
Higashiku, Osaka 541, JAPAN
ATTN: Yukio Shibayama, President

SUPERIOR OIL COMPANY
First City National Bank Building
Houston, Texas 77002
ATTN: Mr. H. B. Keck, President

TECK CORPORATION LIMITED
Suite 4900 (P. O. Box 49)
Toronto-Dominion Centre
Toronto 1, Ontario, CANADA
ATTN: Mr. N. B. Keevil, President

AUGUST THYSSEN-HÜTTE AG
41 Duisburg-Homborn
Kaiser-Wilhelm-Strasse 100
Postfach 67
FEDERAL REPUBLIC OF GERMANY
ATTN: Dr. D. Spethmann, President

OCCIDENTAL MINERALS CORPORATION
6073 West 44th Avenue
Wheat Ridge, Colorado 80033
ATTN: Mr. P. A. Bailly, President

OCEAN RESOURCES, INC.
P. O. Box 2244
La Jolla, California 92037
ATTN: Dr. John Haro, President

PLACER DEVELOPMENT LTD.
1030 W. Georgia Street
Vancouver 5, B.C., CANADA
ATTN: Mr. T. H. McClelland, President

PHELPS DODGE CORPORATION
300 Park Avenue
New York, New York 10022
ATTN: Mr. G. B. Munroe, President

PREUSSAG AKTIENGESELLSCHAFT
D-300 Hannover 1
P. O. Box 4829
Leibnizufer 9
FEDERAL REPUBLIC OF GERMANY
ATTN: Mr. G. Sassmannshausen, Chairman

UTAH INTERNATIONAL, INC.
550 California Street
San Francisco, California 94104
ATTN: Mr. A. M. Wilson, President

Responses from the U.S. Department of State and the Embassies of Canada (December 6, 1974), the United Kingdom (January 20, 1975), and Australia (March 18, 1975), to the Claim of Exclusive Mining Rights by Deepsea Ventures, Inc. *

* 14 I.L.M. 66, 67, 795 and 796 (1975).

Statement Made Available by the U.S. Department of State*

STATEMENT ON CLAIM OF EXCLUSIVE MINING RIGHTS
BY DEEPSEA VENTURES, INC.

The Department of State received on November 15, 1974, a letter from Mr. John E. Flipse, President of Deepsea Ventures, Inc., described as a "Notice of Discovery and Claim of Exclusive Mining Rights and Request for Diplomatic Protection and Protection of Investment, by Deepsea Ventures, Inc." This claim identifies an area in the eastern Pacific Ocean that is beyond the national jurisdiction of any state and asserts that Deepsea Ventures, Inc. "has discovered and taken possession of, and is now engaged in developing and evaluating, as the first stages of mining a deposit of seabed manganese nodules." Deepsea Ventures asserts the exclusive rights to develop, evaluate and mine the deposit and to take, use and sell all of the manganese nodules in, and the minerals and metals derived therefrom.

The Department of State does not grant or recognize exclusive mining rights to the mineral resources of an area of the seabed beyond the limits of national jurisdiction.

The appropriate means for the development of the law of the sea is the Third United Nations Conference on Law of the Sea and not unilateral claims. The United States supports the achievement of a widely acceptable and comprehensive law of the sea treaty in 1975 that would include a regime and machinery for the exploration for and exploitation of the mineral resources of the deep seabed beyond the limits of national jurisdiction.

The position of the United States Government on deep ocean mining pending the outcome of the Law of the Sea Conference is that the mining of the seabed beyond the limits of national jurisdiction may proceed as a freedom of the high seas under existing international law.

*[Reproduced from the text provided by the U.S. Department of State. This statement was made available following the filing of the Notice with the U.S. Secretary of State, as a guidance paper for response to press inquiries.]

Canadian Response to Deepsea Ventures, Inc.*

1746 Massachusetts Ave. N.W.,
Washington, D.C. 20036

December 6, 1974

Dear Mr. Greenwald,

With reference to your letter of November 15, attaching a copy of a Notice of Discovery and Claim of Exclusive Mining Rights and Request for Diplomatic Protection and Protection of Investments, which Deepsea Ventures Incorporation delivered to the Secretary of State of the United States on the same date, I am under instructions from the Government of Canada to transmit to you the following comments:

> It is the policy of the Canadian Government to seek, through the Development of International Law, in appropriate fora, the establishment of a legal regime to govern the exploration and exploitation of the resources of the deep seabed beyond the limits of national jurisdiction. Indeed, this is the task that is now being pursued by the Third United Nations Law of the Sea Conference, to which Canada attaches the greatest importance. Canada subscribed at an early stage in the work of the United Nations in this respect to the concept that the exploitation of these resources should be carried out for the benefit of mankind as a whole.
>
> The Canadian Government, therefore, does not accept the assertion by Deepsea Ventures Inc. that it has exclusive mining rights or some priority in time over that portion of the international seabed area as described in the notice to the Secretary of State, or that it has acquired any rights to that area or the resources thereof through its activities.

*[Reproduced from the text provided to International Legal Materials by the Embassy of Canada at Washington, D.C.]

The Canadian Government reserves its position concerning the legal rights of States and their nationals with respect to the area of the seabed beyond the limits of national jurisdiction, pending the outcome of the Third United Nations Law of the Sea Conference.

Yours sincerely,

M. CADIEUX

M. Cadieux,
Ambassador.

Mr. Richard J. Greenwald,
Special Counsel,
Deepsea Ventures, Inc.,
Gloucester Point,
Virginia 23062.

DEEPSEA VENTURES, INC. NOTICE OF DISCOVERY AND CLAIM OF EXCLUSIVE MINING RIGHTS, AND REQUEST FOR DIPLOMATIC PROTECTION AND PROTECTION OF INVESTMENT

Reply of the Australian Government*

EMBASSY OF AUSTRALIA
WASHINGTON, D. C.

18 March 1975.

Dear Mr Greenwald,

I refer to your letter dated November 15, 1974 to which was attached a copy of a 'Notice of Discovery and Claim of Exclusive Mining Rights, and Request for Diplomatic Protection and Protection of Investment, by Deepsea Ventures Inc.' addressed to the Secretary of State of the United States and dated November 14, 1974. On instructions from the Government of Australia, I am to reply as follows:

> The Australian Government does not accept the claim by Deepsea Ventures Inc., to exclusive mining rights or to any priorities in the area described. Further, it does not accept that any such rights or priorities have been acquired through the activities of the company. In particular, it cannot accept the validity of such claims as a limitation upon the rights in, and in relation to, the seabed beyond the limits of national jurisdiction which are possessed by the international community generally and which may, in due course, be vested in an international authority. As you will be aware this question is under consideration by the third United Nations Conference of the Law of the Sea. Furthermore, the Government of Australia does not regard your letter as establishing any priority of rights or any acquired right entitled to protection. Moreover, it is not possible for your company to acquire legal security by the device of giving public notice whether or not that notice is acknowledged.

Mr Richard J. Greenwald,
Special Counsel,
Deepsea Ventures, Inc.,
GLOUCESTER POINT,
Virginia, 23062.

Yours sincerely,
PATRICK SHAW
(Patrick Shaw)
Ambassador

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*[Reproduced from the text provided to International Legal Materials by the Embassy of Australia at Washington, D.C.

[Deepsea Ventures, Inc. Notice and Claim appear at 14 I.L.M. 51 (1975). The statement of the Department of State and the Canadian reply appear respectively at 14 I.L.M. 66 and 67 (1975). The reply of the British Government appears on the next page of this issue.]

Reply of the British Government*

BRITISH EMBASSY
3100 Massachusetts Avenue, N.W.
WASHINGTON, D.C. 20008
Telephone: (202) 462-1340

20 January 1975

Mr Richard J Greenwald
Special Counsel
Deepsea Ventures Inc
GLOUCESTER POINT
Virginia 23062

Dear Mr. Greenwald

I refer to your letter of 15 November 1974 enclosing copies of documents concerning a claim by Deepsea Ventures Inc to certain exclusive mining rights in a part of the sea bed beyond the limits of national jurisdiction. I am instructed to inform you that Her Majesty's Government do not recognise this claim.

Your letter and this reply are being copied to the Department of State.

Yours sincerely

E Clover

*[Reproduced from the text provided to International Legal Materials by the British Embassy at Washington, D.C.]

Act of Interim Regulation of Deep Sea-Bed Mining (Federal Republic of Germany), 1981*

* 20 I.L.M. 393 (1981).

FEDERAL REPUBLIC OF GERMANY: ACT OF INTERIM REGULATION OF DEEP SEABED MINING*

The Bundestag (Federal Parliament) has passed the following Act:

Section 1

The purpose of this Act is to regulate provisionally and to promote the exploration for and the recovery of mineral resources from the deep seabed until the entry into force of an international agreement for the Federal Republic of Germany, so as to

1. contribute to the development of these mineral resources on the basis of the freedom of the high seas, without claiming sovereign rights over the deep seabed and its mineral resources, for the benefit of all nations,

2. assure regard for the interests of others engaged in the exploration of the deep seabed and in the use of the high seas as well as for the protection of the marine environment,

3. protect life, health and property against dangers arising from deep seabed mining.

Section 2

For the purposes of this Act the term:

1. "exploration" means the systematic survey of a site on the deep seabed with the objective of locating deposits and determining the significant conditions for recovery; exploration includes the taking of samples of mineral resources required for the development, construction or testing of processing facilities. The term does not include scientific research activities on the deep seabed or the testing at sea of equipment;

2. "recovery" means the dislodging or removal of substantial quantities of mineral resources for commercial use, including the processing thereof, if carried out at sea;

3. "development" means exploration and recovery;

4. "deep seabed" means the seabed and its immediate subsoil located outside areas over which the Federal Republic of Germany claims sovereign rights or recognizes the sovereign rights of other states;

5. "mineral resources" means deposits or accretions of mineral aggregates containing manganese, nickel, cobalt or copper in quantities larger than mere traces.

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*[This unofficial English translation was provided to International Legal Materials by Bruno A. Ristau of the I.L.M. Editorial Advisory Committee. The official German text appears in Bundesgesetzblatt, Part I, 9080, No. 50 (August 22, 1980), at p. 1457.

[This translation supersedes the one carried at 19 I.L.M. 1330 (1980) which was provided by the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee. A number of technical inaccuracies of that translation have been corrected.

[The U.S. Deep Seabed Hard Mineral Resources Act of June 28, 1980, appears at 19 I.L.M. 1003 (1980). The Draft Convention on the Law of the Sea of August 27, 1980, appears at 19 I.L.M. 1129 (1980).]

Section 3

(1) The development of mineral resources from the deep seabed by residents of the Federal Republic of Germany (Section 4(1)(3) of the Foreign Trade Law (Aussenwirtschaftsgesetz)) is permitted only if an authorization has been granted either under this Act or by a reciprocating state (Section 14).

(2) Rules of international law governing the high seas shall not be affected.

Section 4

(1) Authorization for exploration shall be granted by means of a license. Such license shall grant the exclusive right to conduct exploration activities and to acquire title to such mineral resources as are required for the development, construction or testing of processing facilities.

(2) Authorization for recovery shall be granted by means of a permit. The permit shall grant the exclusive right to carry out recovery activities and to acquire title to mineral resources.

(3) Recovery as defined in Section 2(2) shall not be permitted before 1 January 1988.

Section 5

(1) Residents of the Federal Republic of Germany shall be granted authorizations as long as no international agreement on deep seabed mining, which has entered into force for the Federal Republic of Germany, prohibits the issuance of authorizations by the contracting states, and provided that

1. no authorization has been granted, or applied for, covering the site or parts thereof, under this Act or under the regulations of a reciprocating state;

2. the applicant, as a result of his knowledge, experience and financial resources as well as his reliability, can guarantee an orderly development of mineral resources, including plant safety requirements and measures to protect the work force;

3. there is no danger that such development will

   a) substantially impair the rights of others in their enjoyment of the freedom of the high seas, or adversely affect the marine environment, or

   b) materially impair the foreign relations of the Federal Republic of Germany.

(2) Authorization may be denied if a previous authorization granted to the applicant for the same site or parts thereof was revoked, retracted or returned by him within the three-year period preceding the submission of the application.

(3) A permit will generally be issued only if the applicant has previously been granted a license for the site applied for.

Section 6

(1) A resident of the Federal Republic of Germany who is engaged in exploration activities at the time of the effective date of this Act may continue these activities. He must, however, apply for a license within three months.

(2) If on the effective date of this Act several residents of the Federal Republic of Germany are engaged in exploration activities on the same site and

if they apply for a license for such site or parts thereof, their priority shall be established on principles of equity. Specific account shall be taken of the date on which exploration activities were commenced, the extent of such exploration and the amount of the investment made.

Section 7

If more than one application is filed for the same site or parts thereof, priority shall be determined by the chronological order of filing. Priority shall, however, only attach if the application contains sufficient information making it possible to ascertain whether all relevant prerequisites, as defined in Section 5, have been met.

Section 8

An application for authorization must be accompanied by a work plan. Such plan shall contain a description of the project, and in particular the time schedule, the recovery method and the measures designed to protect the marine environment. An application for a permit must in addition include information on the structure of the site for which the permit is requested, on the type, position and volume of deposits of mineral resources, the recovery targets and the time schedule for the recovery.

Section 9

(1) The Federal Minister of Economics shall be responsible for the issuance of authorizations.

(2) The Federal Minister of Economics shall maintain a register in which all applications for authorization and decisions on applications are recorded. Applications and authorizations communicated to the Federal Government by a reciprocating state shall also be recorded.

(3) Any person who can show a legitimate interest shall be allowed access to the applications for authorization recorded in the register and decisions on these applications. Documents which are attached to applications or to decisions and which contain business or industrial secrets are excluded.

Section 10

(1) A license shall be valid for ten years, a permit for twenty years. A license may be extended on application and for good cause for periods of up to five years, and a permit for periods of up to ten years.

(2) The size of a site of exploration shall be sufficiently large to allow a thorough examination of the site; it should also be of a sufficient size to permit a subsequent economical recovery of minerals. The size of a recovery site shall be sufficiently large to assure the permit holder the ability to carry out, in accordance with his work plan, an economic recovery of minerals which shall be completed before the expiration of his permit.

(3) A license shall require the licensee to make periodic and reasonable investments for exploration. In determining the volume of such investments, consideration shall be given to the size of the site and the amount of potential expenditures for future recovery operations.

(4) An application for a permit for an exploration site or a part thereof filed by the licensee during the life of the license shall enjoy priority over all other applications for a permit for the same site.

(5) Additional conditions may be imposed in the authorization so far as necessary to safeguard the foreign trade and other interests protected by this Act.

It shall be permissible to modify authorizations previously issued and to impose, modify or supplement at a later date such additional conditions as the public interest mentioned in the first sentence requires, taking into account the economic interest of the holder of such authorization.

Section 11

An authorization may be assigned to a third party only with the approval of the Federal Minister of Economics. Approval shall be granted provided that the requirements of Section 5 are met and the third party accepts any additional conditions supplementing the authorization.

Section 12

(1) The holder of a permit shall pay an annual mining fee to the Federal Government for the mineral resources recovered from the site during that year.

(2) The fee shall be 0.75 percent of the average market price in that particular year for the metals and minerals in their simples commercial processing forms which are recovered from the mineral resources mined.

Section 13

A trust fund, administered by the Federal Government shall be established with the fees paid under Section 12. The Federal Government shall be authorized to transfer the trust fund to the international seabed authority after entry into force of an international agreement on deep seabed mining for the Federal Republic of Germany. Up to that time the trust fund shall be invested for foreign aid purposes.

Section 14

(1) The Federal Republic of Germany will recognize applications and authorizations of which it is notified by another state provided that such state:

1. regulates deep seabed mining in a manner which does not differ substantially from the provisions of and the regulations promulgated under this Act, and

2. recognizes the applications filed and the authorizations issued under this Act.

Any state found by the Federal Minister of Economics to satisfy the above requirements shall be considered a reciprocating state for purposes of this Act.

(2) Any state meeting the requirements set forth in paragraph 1 shall be notified without delay by the Federal Minister of Economics of the receipt of any application and of any decision relating to an authorization.

Section 15

(1) Charges (fees and expenses) shall be taxed for official acts undertaken pursuant to the provisions of, and the regulations promulgated under, this Act.

(2) The Federal Minister of Economics shall be authorized to promulgate regulations defining the taxable acts and providing for fixed rates or minimum and maximum rates.

Section 16

The Federal Minister of Economics is authorized to promulgate regulations governing procedures for the implementation of this Act, particularly provisions pertaining to the procedure for the issuing of authorizations and for the

recognition of foreign authorizations and applications, as well as provisions pertaining to the liability, calculation, levying, maturity, payment of interest, collection and prescription of mining fees due.

Section 17

(1) The Federal Minister of Economics may issue such regulations as are necessary for supervising development activities and to ensure that they are conducted in accordance with the legal provisions. For this purpose he may, in particular, stipulate a duty to report, and require the keeping and preservation of records.

(2) The supervising authority shall be the Federal Minister of Economics. He may by regulation transfer his supervising powers to subordinate authorities.

(3) The supervising authorities may demand the information required for the execution of their tasks, shall have recourse to and may examine company records and other documents as well as conduct inspections. The persons commissioned by the supervising authorities may enter business and company premises after business hours, and private housing only if necessary to avert imminent danger to public safety and order; the inviolability of private premises (guaranteed by Article 13 of the Basic Law) shall accordingly be restricted.

(4) Any person engaging either directly or indirectly in the exploration or recovery of mineral resources from the deep seabed shall be obligated to provide information on request.

(5) Any person thus obligated may refuse to answer those questions which, if answered, would place him or a member of his family as defined in subparagraphs 1-3 of paragraph 1 of Section 383 of the Code of Civil Procedure in jeopardy of criminal prosecution or proceedings in accordance with the Statute on Disorderly Conduct.

Section 18

(1) The Federal Minister of Economics may take measures in individual cases required to safeguard the interests specified in subparagraphs 2 and 3 of paragraph 1 of Section 5, above. If development as defined in paragraph 1 of Section 3 is carried out without authorization, the Federal Minister of Economics may prohibit its continuation.

(2) Those Federal Law Enforcement Officers entitled to take immediate coercive measures shall be designated in a regulation promulgated by the Federal Minister of Economics, in agreement with the Federal Ministers of the Interior, Finance, and Transport.

(3) Aboard German flag vessels or vessels of such countries as may contractually recognize the supervision and prosecution powers of the Federal Law Enforcement Officers carried out under this Act, the Federal Law Enforcement Officers shall, when investigating on the high seas any violation of Sections 19 and 20, have the rights and duties of police officers according to the Statute on Disorderly Conduct (Gesetz über Ordnungswidrigkeiten). They shall to that extent possess the status of officials assisting the public prosecutor.

(4) Should the enforcement of this Act require an on-board inspection of a seagoing vessel, the owner and the person in charge of the vessel are required at all times to enable the persons commissioned by the supervising authorities and the Federal Law Enforcement Officers to board the vessel and take action necessary in the execution of their powers. They are required to furnish manpower and aid, provide information and produce documents as are required for the execution of the supervisory tasks. The inviolability of private premises (guaranteed by Article 13 of the Basic Law) shall accordingly be restricted.

Section 19

(1) The following acts committed either willfully or negligently shall be deemed disorderly conduct:

1. the development of mineral resources from the deep seabed without authorization according to paragraph 1 of Section 3;

2. failure to comply with an enforceable condition imposed under paragraph 5 of Section 10;

3. acts in violation of the regulations promulgated under Section 16 and paragraph 1 of Section 17 insofar as these regulations refer to this Section defining fines.

(2) A fine of up to DM 100,000 may be imposed for failure to comply with subparagraphs 1 and 2 of paragraph 1, above, and a fine of up to DM 10,000 for failure to comply with subparagraph 3 of paragraph 1, above.

Section 20

(1) Any person who commits an act prohibited by subparagraphs 1 or 2 of paragraph 1 of Section 19 and who thereby endangers the life, health or property of considerable value of a third party shall be punished by a fine or imprisonment for a term not exceeding five years.

(2) Any person

1. negligently causing a danger or

2. acting negligently and thus causing the danger shall be punished by a fine or imprisonment for a term not exceeding two years.

(3) If no particular place of venue is warranted for an offense defined in paragraphs 1 or 2 above, Hamburg shall be the place of venue. The competent District Court (Amtsgericht) shall be the District Court in Hamburg.

Section 21

This Act shall also apply to Land Berlin according to paragraph 1 of Section 13 of the Third Transfer Statute (Drittes Überleitungsgesetz). Regulations promulgated under this Act shall apply in Land Berlin according to Section 14 of the Third Transfer Statute.

Section 22

This Act shall enter into force on the day following its publication.

Deep Sea Mining Act (Temporary Provisions) (United Kingdom), 1981*

* 20 I.L.M. 1218 (1981).

Deep Sea Mining (Temporary Provisions) Act 1981

1981 CHAPTER 53

An Act to make provision with respect to deep sea mining operations; and for purposes connected therewith. [28th July 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Prohibition of unlicensed deep sea mining.

1.—(1) Subject to the following provisions of this Act, a person to whom this section applies shall not explore for the hard mineral resources of any part of the deep sea bed unless he holds an exploration licence granted under section 2 below in respect of that part of the deep sea bed or is the agent or employee of the holder of that licence (acting in his capacity as such).

(2) Subject to the following provisions of this Act, a person to whom this section applies shall not exploit the hard mineral resources of any part of the deep sea bed unless he holds an exploitation licence granted under section 2 below in respect of that part of the deep sea bed or is the agent or employee of the holder of that licence (acting in his capacity as such).

(3) Any person who contravenes subsection (1) or (2) above shall be guilty of an offence and liable—

(*a*) on conviction on indictment, to a fine;

(*b*) on summary conviction, to a fine not exceeding the statutory maximum.

(4) This section applies to any person who—

(*a*) is a citizen of the United Kingdom and Colonies, a Scottish firm or a body incorporated under the law of any part of the United Kingdom; and

(*b*) is resident in any part of the United Kingdom.

(5) Her Majesty may by Order in Council extend the application of this section—

(*a*) to all citizens of the United Kingdom and Colonies, Scottish firms and bodies incorporated under the law of any part of the United Kingdom who are resident outside the United Kingdom or to such citizens, firms and bodies who are resident in any country specified in the Order;

(*b*) to bodies incorporated under the law of any of the Channel Islands, the Isle of Man, any colony or an associated state.

(6) In this Act—

"deep sea bed" means that part of the bed of the high seas in respect of which sovereign rights in relation to the natural resources of the sea bed are neither exercisable by the United Kingdom nor recognised by

Her Majesty's Government in the United Kingdom as being exercisable by another Sovereign Power or, in a case where disputed claims are made by more than one Sovereign Power, by one or other of those Sovereign Powers;

"hard mineral resources" means deposits of nodules containing (in quantities greater than trace) at least one of the following elements, that is to say, manganese, nickel, cobalt, copper, phosphorus and molybdenum;

and references in subsections (4) and (5) above to citizens of the United Kingdom and Colonies shall be read as including references to persons who are British subjects by virtue of section 2 of the British Nationality Act 1948 or British subjects without citizenship by virtue of section 13 or 16 of that Act or British subjects by virtue of the British Nationality Act 1965 or British protected persons within the meaning of the 1948 Act.

1948 c. 56.

1965 c. 34.

(7) In any proceedings, a certificate issued by the Secretary of State certifying that sovereign rights are not exercisable in relation to any part of the sea bed by the United Kingdom or by any other Sovereign Power shall be conclusive as to that fact; and any document purporting to be such a certificate shall be received in evidence and shall, unless the contrary is proved, be deemed to be such a certificate.

Exploration and exploitation licences.

2.—(1) In this Act—

"exploration licence" means a licence authorising the licensee to explore for the hard mineral resources of such part of the deep sea bed as may be specified in the licence; and

"exploitation licence" means a licence authorising the licensee to exploit the hard mineral resources of such part of the deep sea bed as may be specified in the licence.

(2) Subject to subsection (4) and section 3 below, the Secretary of State may on payment of such fee as may with the consent of the Treasury be prescribed grant to such persons as he thinks fit exploration or exploitation licences; and in determining whether to grant a licence in any case he shall have regard to any relevant factors including in particular the desirability of keeping an area or areas of the deep sea bed free from deep sea bed mining operations so as to provide an area or areas for comparison with licensed areas in assessing the effects of such operations.

(3) An exploration or an exploitation licence shall be granted for such period as the Secretary of State thinks fit and shall contain such terms and conditions as he thinks fit and, in particular but without prejudice to the generality of the foregoing, a licence may include terms and conditions—

(*a*) relating to the safety, health or welfare of persons employed in the licensed operations or in the ancillary operations;

(*b*) relating to the processing or other treatment of any hard mineral resources won in pursuance of the licence which is carried out by or on behalf of the licensee on any ship;

(*c*) relating to the disposal of any waste material resulting from such processing or other treatment;

(*d*) requiring plans, returns, accounts or other records with respect to any matter connected with any licensed

area or licensed operations or ancillary operations to be furnished to the Secretary of State;

(*e*) requiring samples of any hard mineral resources discovered or won in any licensed area, or assays of such samples, to be furnished to the Secretary of State;

(*f*) requiring any exploration or exploitation of the hard mineral resources of the licensed area to be diligently carried out;

(*g*) requiring the payment to the Secretary of State of such sums as may with the consent of the Treasury be prescribed at such times as may be prescribed; and

(*h*) permitting the transfer of the licence in prescribed cases or with the written consent of the Secretary of State.

(4) An exploration licence shall not be granted in respect of any period before 1st July 1981 and an exploitation licence shall not be granted in respect of any period before 1st January 1988.

(5) Where the Secretary of State has granted an exploration licence he shall not grant an exploitation licence in respect of any part of the licensed area otherwise than to the licensee except with the licensee's written consent.

(6) Any fees or other sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

Licences granted by reciprocating countries.

3.—(1) Where, in the opinion of Her Majesty, the law of any country contains provisions similar in their aims and effects to the provisions of this Act, Her Majesty may by Order in Council designate that country as a reciprocating country for the purposes of this Act.

(2) Where a person holds a licence or other authorisation issued and for the time being in force under the law of a reciprocating country for the exploration or exploitation of the hard mineral resources of any area of the deep sea bed specified in that authorisation (the "authorised area")—

(*a*) the Secretary of State shall not grant an exploration or exploitation licence in respect of any part of the authorised area; and

(*b*) if section 1 above applies to that person, he shall not be prohibited by that section from engaging in the exploration or, as the case may be, exploitation of the hard mineral resources of the authorised area.

(3) Any reference in this Act to a reciprocal authorisation is a reference to an authorisation within subsection (2) above; and references in subsection (2)(*b*) above to any person who holds a reciprocal authorisation include references to his agents or employees acting in their capacity as such.

(4) For the purposes of any proceedings, a reciprocal authorisation may be proved by the production of a copy of the authorisation certified to be a true copy by an official of the government or other body which issued the authorisation; and any document purporting to be such a copy shall be received in evidence and shall, unless the contrary is proved, be deemed to be such an authorisation.

Prevention of interference with licensed operations.

4.—(1) A person to whom section 1 above applies shall not intentionally interfere with any operations carried on in pursuance of an exploration or exploitation licence or a reciprocal authorisation.

(2) Any person who contravenes subsection (1) above shall be guilty of an offence and liable—

(*a*) on conviction on indictment, to a fine;

(*b*) on summary conviction, to a fine not exceeding the statutory maximum.

Protection of the marine environment

5.—(1) In determining whether to grant an exploration or exploitation licence the Secretary of State shall have regard to the need to protect (so far as reasonably practicable) marine creatures, plants and other organisms and their habitat from any harmful effects which might result from any activities to be authorised by the licence; and the Secretary of State shall consider any representations made to him concerning such effects.

(2) Without prejudice to section 2(3) above, any exploration or exploitation licence granted by the Secretary of State shall contain such terms and conditions as he considers necessary or expedient to avoid or minimise any such harmful effects.

Variation and revocation of licences.

6.—(1) The Secretary of State may vary or revoke any exploration or exploitation licence—

(*a*) where the variation or revocation is in the opinion of the Secretary of State required—

(i) to ensure the safety, health or welfare of persons engaged in any of the licensed operations or ancillary operations; or

(ii) to protect any marine creatures, plants or other organisms or their habitat; or

(iii) in pursuance of section 8 below; or

(iv) to avoid a conflict with any obligation of the United Kingdom arising out of any international agreement in force for the United Kingdom;

(*b*) in any case, with the consent of the licensee.

(2) The Secretary of State may revoke an exploration or exploitation licence in any case where a term or condition of the licence or any regulation made under this Act has not been complied with.

Freedom of the high seas.

7. It shall be the duty of the licensee to exercise his rights under the licence with reasonable regard to the interests of other persons in their exercise of the freedom of the high seas.

Foreign discriminatory action.

8.—(1) This section applies to any ship which is registered in a country of which the government (or an agency or authority of the government), in the opinion of the Secretary of State, has adopted or is proposing to adopt discriminatory measures or practices prohibiting or otherwise restricting the use in connection with any deep sea bed mining operations of ships registered in the United Kingdom.

(2) Without prejudice to section 2(3) above, the Secretary of State may include in any exploration or exploitation licence, either on granting the licence or by a subsequent variation, such terms and conditions as he considers expedient for prohibiting or otherwise restricting the use in connection with the licensed operations or any ancillary operations of any ship to which this section applies.

(3) The Secretary of State may by order extend this section to ships which are registered in any country of which the government (or any agency or authority of the government), in his opinion, has adopted or is proposing to adopt discriminatory measures or practices prohibiting or otherwise restricting the use in connection with any deep sea bed mining operations of ships registered in the Channel Islands, the Isle of Man or any colony.

(4) In this section, references to an agency or authority of a government include references to any undertaking appearing to the Secretary of State to be, or to be acting on behalf of, an

undertaking which is in effect owned or controlled (directly or indirectly) by a State other than the United Kingdom.

The Deep Sea Mining Levy.

9.—(1) Subject to the following provisions of this section, the holder of an exploitation licence shall, at the prescribed times, pay to the Secretary of State—

(*a*) an amount equal to 3·75 per cent. of the value of the hard mineral resources recovered in pursuance of the licence during any prescribed period ; or

(*b*) if the value of the hard mineral resources so recovered cannot be ascertained under paragraph (*a*) above, 0·75 per cent. of the value of any manganese, nickel, cobalt, copper, phosphorus or molybdenum, (" the elements ") or any compound containing any of the elements, found in those hard mineral resources.

(2) The value of any hard mineral resources, element or compound shall for the purposes of subsection (1) above be determined in accordance with such rules as may be prescribed.

(3) If any hard mineral resources recovered by the licensee during any prescribed period contain less than the amount prescribed in relation to that period (by weight or proportion or otherwise) of any of the elements or any compound containing any of the elements, the licensee shall not be liable to make any payment in respect of that element or compound.

(4) A licensee may elect, in writing and at the prescribed times, in respect of any element or compound specified in the election to defer payment under subsection (1) above until the element or compound is separated from any other matter with which it was recovered or, if earlier, until he disposes of the hard mineral resources containing that element or compound.

(5) Where a licensee fails at the prescribed time to pay to the Secretary of State any amount which he is required by subsection (1) above to pay at that time, the amount due shall as from that time carry interest at the relevant rate until payment.

For the purposes of this subsection, " relevant rate " means such rate as the Secretary of State may with the consent of the Treasury prescribe.

(6) Where any payment has been deferred under subsection (4) above and becomes due, the amount due shall be calculated in accordance with subsections (1) to (3) above, and, for the purposes of subsection (5) above, that amount shall be deemed to have become due on the date when it would have been due had the election not been made.

The Deep Sea Mining Fund.

10.—(1) There shall be established under the control and management of the Treasury a fund to be called the Deep Sea Mining Fund (" the Fund ") into which there shall be paid any sums paid to the Secretary of State under section 9 above.

(2) Subject to subsection (3) below, the Treasury shall prepare accounts of the Fund and shall send them to the Comptroller and Auditor General not later than the end of the month of November following the financial year to which the accounts relate ; and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies thereof, together with his report thereon, before Parliament.

(3) Subsection (2) above shall not have effect until the first payment into the Fund is made in pursuance of subsection (1) above.

(4) In subsection (2) above, " financial year " means a period of twelve months ending on 31st March except that the Secretary of State may direct that—

(*a*) the first financial year for the Fund shall be of such period not exceeding two years and ending on 31st March as he may specify in the direction ; and

(*b*) where an order under subsection (7) below is made, the last financial year shall be of such period not exceeding twelve months as he may specify in the direction ;

and, where a direction is given under paragraph (*b*) above, subsection (2) shall apply in relation to the accounts for that last financial year with the substitution for the reference to the end of the month of November of a reference to the end of the eighth month following the end of that year.

(5) If an international organisation for the deep sea bed is established in pursuance of an international agreement on the law of the sea which has been adopted by a United Nations Conference on the Law of the Sea and has entered into force for the United Kingdom, the Secretary of State may by order designate that organisation as the relevant international organisation for the purposes of this section.

(6) An order designating an international organisation as the relevant international organisation for the purposes of this section may also make provision for the payment to that organisation of any sums for the time being standing to the credit of the Fund.

(7) If within ten years of the coming into force of this section no organisation has been designated as the relevant international organisation the Secretary of State may by order made with the approval of the Treasury provide for the winding up of the Fund and the payment into the Consolidated Fund of any sums standing to its credit and for the repeal of section 9 above.

(8) An order under subsection (7) above shall not be made unless a draft thereof has been approved by resolution of the Commons House of Parliament.

(9) Until such time as an international organisation is so designated, any money in the Fund may from time to time be paid over to the National Debt Commissioners and invested by them, in accordance with such directions as may be given by the Treasury, in any such manner as may be specified by an order of the Treasury for the time being in force under section 22(1) of the National Savings Bank Act 1971.

1971 c. 29.

Inspectors.

11.—(1) The Secretary of State may appoint as inspectors to discharge such functions as may be prescribed and generally to assist him in the execution of this Act such persons appearing to him to be qualified for the purpose as he considers appropriate from time to time.

(2) The Secretary of State may make to or in respect of any inspector appointed under subsection (1) above such payments by way of remuneration or otherwise as the Secretary of State may determine with the approval of the Minister for the Civil Service.

Regulations and orders.

12.—(1) The Secretary of State may make regulations—

(*a*) prescribing anything required or authorised to be prescribed under this Act ;

(*b*) generally for carrying this Act into effect;

and, without prejudice to the generality of the foregoing, regulations may be made with respect to any of the matters mentioned in the Schedule to this Act.

(2) Regulations under this section—

(*a*) may make different provision for different cases or classes of cases and may exclude the operation of any provision of the regulations in specified cases; and

(*b*) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power of the Secretary of State to make an order under this Act shall be exercisable by statutory instrument.

Disclosure of information.

13.—(1) A person shall not disclose any information which he has received in pursuance of this Act and which relates to any other person except—

(*a*) with the written consent of that other person; or

(*b*) to the Treasury, the Commissioners of Inland Revenue or the Secretary of State; or

(*c*) with a view to the institution of or otherwise for the purposes of any criminal proceedings under this Act or regulations made under this Act; or

(*d*) in accordance with regulations made under this Act; or

(*e*) to the government of a reciprocating country or an agency of such a government or to any international organisation designated for the purposes of section 10 above as the relevant international organisation.

(2) Any person who discloses any information in contravention of subsection (1) above shall be guilty of an offence and liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

(*b*) on summary conviction, to a fine not exceeding the statutory maximum.

Supplementary provisions relating to offences.

14.—(1) Proceedings for an offence under this Act or under regulations made under this Act may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

(2) Proceedings for such an offence shall not be instituted in England and Wales or Northern Ireland except—

(*a*) in the case of proceedings in England and Wales, by or with the consent of the Director of Public Prosecutions; or

(*b*) in the case of proceedings in Northern Ireland, by or with the consent of the Director of Public Prosecutions for Northern Ireland; or

(*c*) in any case, by the Secretary of State or a person authorised by him in that behalf.

(3) A person may be guilty of an offence under regulations made under this Act whether or not he is a citizen of the United Kingdom and Colonies or, in the case of a body corporate, it is incorporated under the law of any part of the United Kingdom.

(4) Where an offence has been committed by a body corporate and is proved to have been committed with the consent or con-

nivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection "director", in relation to a body corporate which—

(*a*) is established by or under any enactment for the purpose of carrying on under public ownership any industry or part of an industry or undertaking; and

(*b*) is a body whose affairs are managed by its members,

means a member of the body corporate.

(5) In any proceedings for an offence of failing to comply with any provision of this Act or of regulations made under this Act, it shall be a defence to prove that the accused used all due diligence to comply with that provision.

(6) In this Act, "the statutory maximum" means—

(*a*) in England and Wales and Northern Ireland, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (that is to say, £1,000 or another sum fixed by order under section 143(1) of that Act to take account of changes in the value of money); and

1980 c. 43.

(*b*) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (that is to say, £1,000 or another sum fixed by order under section 289D of that Act for that purpose);

1975 c. 21.

and for the purposes of the application of this definition in Northern Ireland the provisions of the Magistrates' Courts Act 1980 which relate to the sum mentioned in paragraph (*a*) above shall extend to Northern Ireland.

Civil liability for breach of statutory duty.

15.—(1) Breach of a duty imposed on any person by a provision of regulations made in pursuance of section 12 above which state that this subsection applies to such a breach shall be actionable so far, and only so far, as the breach causes personal injury; and references in section 1 of the Fatal Accidents Act 1976 and in Article 3(1) of the Fatal Accidents (Northern Ireland) Order 1977 to a wrongful act, neglect or default shall include references to any such breach which is so actionable.

1977 c. 30.
S.I. 1977/1251. (N.I.18).

(2) Nothing in subsection (1) above shall prejudice any action which lies apart from the provisions of that subsection.

(3) A defence to a charge which is available by virtue of section 14(5) above or by virtue of regulations made under this Act shall not be a defence in any civil proceedings, whether brought in pursuance of this section or otherwise.

(4) In subsection (1) above, "personal injury" includes any disease, any impairment of a person's physical or mental condition and any fatal injury.

Dumping at Sea Act 1974.

16. Nothing in the Dumping at Sea Act 1974 shall apply in relation to anything done in pursuance of an exploration or exploitation licence or a reciprocal authorisation.

1974 c. 20.

Interpretation.

17. In this Act—

"ancillary operations", in relation to any licensed operations, means any activity carried on by or on behalf of the licensee which is ancillary to the licensed operations (including the processing and transportation of any substances recovered);

"deep sea bed" has the meaning given by section 1 above;

"deep sea bed mining operations" means any exploration or exploitation of the hard mineral resources of the deep sea bed;

"exploitation" means commercial exploitation;

"exploitation licence" has the meaning given by section 2 above;

"exploration", in relation to the hard mineral resources of any part of the deep sea bed, means the investigation of that part of the deep sea bed for the purpose of ascertaining whether or not the hard mineral resources of that part of the deep sea bed can be commercially exploited;

"exploration licence" has the meaning given by section 2 above;

"hard mineral resources" has the meaning given by section 1 above;

"inspector" means a person appointed as inspector under section 11 above;

"licensed area" means any part of the deep sea bed in respect of which there is in force an exploration or exploitation licence;

"licensed operations" means any activities which the licensee may carry on by virtue of his licence;

"licensee" means the holder of an exploration or exploitation licence;

"prescribed" means prescribed by regulations under section 12 above;

"reciprocal authorisation" has the meaning given by section 3 above;

"reciprocating country" means a country designated as such by an Order under section 3 above; and

"ship" includes every description of vessel used in navigation.

Short title, etc.

18.—(1) This Act may be cited as the Deep Sea Mining (Temporary Provisions) Act 1981.

(2) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed under this subsection for different purposes.

(3) If it appears to the Secretary of State that an international agreement on the law of the sea which has been adopted by a United Nations Conference on the Law of the Sea is to be given effect within the United Kingdom the Secretary of State may by order provide for the repeal of this Act.

(4) An order under subsection (3) above shall not be made unless a draft thereof has been approved by resolution of each House of Parliament.

(5) Such an order may contain such incidental, supplementary and transitional provisions as the Secretary of State thinks fit.

(6) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend, with such modifications (if any) as may be specified in the Order, to the Channel Islands, the Isle of Man or any colony.

(7) It is hereby declared that this Act extends to Northern Ireland.

Union of Soviet Socialist Republics Edict on Provisional Measures to Regulate Soviet Enterprises for the Exploration and Exploitation of Mineral Resources April 17, 1982*

* U.S.S.R. Mission to the U.N., U.N. Press Release (No. 45), April 20, 1982; 21 I.L.M. 551.

UNION OF SOVIET SOCIALIST REPUBLICS: EDICT ON PROVISIONAL MEASURES TO REGULATE SOVIET ENTERPRISES FOR THE EXPLORATION AND EXPLOITATION OF MINERAL RESOURCES*

ON PROVISIONAL MEASURES TO REGULATE THE ACTIVITY OF SOVIET ENTERPRISES RELATING TO THE EXPLORATION AND EXPLOITATION OF MINERAL RESOURCES OF SEABED AREAS BEYOND THE LIMITS OF THE CONTINENTAL SHELF

Recently a number of states, without waiting for the conclusion of a new international convention being worked out at the III United Nations Conference on the Law of the Sea in accordance with Resolution 2749 (XXV) of the United Nations General Assembly, are adopting acts authorizing their physical and juridical persons to explore and exploit the mineral resources of seabed areas beyond the limits of the continental shelf.

The Soviet Union favors and will continue to favor the settlement of urgent problems of the legal regime of the World Ocean on an international basis and the conclusion for this purpose of a Convention in which all questions of the law of the sea and in particular questions of the use of mineral resources of the seabed beyond the limits of the continental shelf would be resolved in an intergraced manner with their interconnections on a just and equal basis, taking into account the legal interests of all states.

At the same time, taking into account that other states are unilaterally commencing the practical exploitation of seabed mineral resources beyond the limits of the continental shelf, the Soviet Union is obliged to take measures to protect its interests with respect to the exploration and exploitation of the said resources.

The Presidium of the USSR Supreme Soviet decrees:

1. Competent agencies of the USSR may issue permits to Soviet enterprises for the exploration and also permits for the exploitation of mineral resources of seabed areas beyond the limits of the continental shelf (hereinafter "seabed areas") and determine the size and the geographic coordinates of seabed plots with respect to which such permits shall be issues.

2. When issuing permits in accordance with Article 1 of the present Edict, the Soviet state does not claim the establishment of sovereignty, sovereign or exclusive rights, jurisdiction, or the right of ownership with respect to any seabed areas or the resources thereof and does not recognize claims of this nature on the part of other states.

The USSR shall exercise jurisdiction with respect to the Soviet juridical persons who participate in carrying on work relative to the exploration and exploitation of mineral resources of seabed areas, with respect to vessels and stationary and moveable installations used by Soviet enterprises when carrying on the said work, and also with respect to physical persons situated on such vessels and installations.

3. The USSR shall, on the basis of reciprocity, effectuate cooperation in regard to questions of the exploration and exploitation of mineral resources of seabed areas with those states which recognize the permits issued to Soviet enterprises in accordance with the present Edict.

Competent Soviet agencies shall inform states provided for by paragraph one of the present Article about applications received from Soviet enterprises for the issuance of of permits for the exploration and exploitation of mineral resources of seabed areas, as well as about permits issued to carry on such work.

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*[Translated for International Legal Materials by William E. Butler from the official Russian text in Izvestiia, April 18, 1982, pp. 1-2. The Edict was enacted by the Presidium of the USSR Supreme Soviet on April 17, 1982.]

4. A permit for the exploration of mineral resources of seabed areas shall be issued on condition that in the application for such permits there are specified two plots which are deemed to have potential with respect to mineral resources. One of these plots shall be subject to use by the enterprise which has received a pe.mit, and the other shall be reserved for possible exploration and exploitation by a future international organization for the seabed.

Seabed plots with respect to which permits for the exploration or exploitation of seabed mineral resources provided for by the present Edict are issued should not in the total area exceed resonable limits, taking into account the legal interests of other states.

5. Enterprises which have received respective permits shall acquire an exclusive right to the exploration or exploitation of mineral resources of seabed areas on the plot specified in the permit.

6. Enterprises which have received permits to exploit mineral resources of seabed areas shall have the right to commence this not earlier than January 1, 1988.

7. On the basis of treaties of the USSR with interested states, foreign physical and juridical persons may take part in the exploration and exploitation of mineral resources of seabed areas being carried on by Soviet enterprises, and Soviet enterprises may take part in carrying on the said work which is being carried out by foreign physical and juridical persons.

8. Competent agnecies of the USSR shall effectuate cooperation on the basis of international treaties of the USSR with interested foreign states for the purpose of rendering assistance to them in the development of technology, in the production of equipment, in implementing measures to prevent pollution of the environment, the training of cadres, and other questions connected with the exploration and exploitation of mineral resources of seabed areas.

9. The carrying on by Soviet enterprises of work relating to the exploration and exploitation of mineral resources of seabed areas should not create unjustified obstacles to the realization of the principle of freedom of the seas or to lawful activity on the World Ocean, nor be contrary to international obligations of the USSR under previously concluded treaties.

10. The erection by Soviet enterprises of stationary installations used to carry on work relating to the exploration and exploitation of seabed area mineral resources, and the creation around stationary and moveable installations of safety zones which may extend to a distance of 500 meters from the installations, calculated from any of their extremities, shall be permitted only with the authorization of competent agencies of the USSR. Installations should have warning devices in order to ensure safety of sea and air navigation, taking into account the norms and standards provided for by international organizations. The erection of the said stationary and moveable installations, and also the creation of safety zones around them, shall be notified in Izveshchenii moreplavateliam.

Enterprises responsible for the maintenance and operation of stationary and moveable installations provided for by paragraph one of the present article should ensure their preservation and keep permanent warning devices concerning the existence of these installations in good repair. Stationary and moveable installations whose operation has ceased should be dismantled if they may create obstances to navigation, fishing, and other types of legal use of the sea.

11. In the event work relating to the explorationand exploitation of seabed area mineral resources is carried on by Soviet enterprises with the participation of foreign physical and juridical persons, the stationary and moveable installations and vessels whcih belong to foreign physical and juridical persons shall be under the jurisdiction of the respective foreign state, except for instances when it is provided otherwise by a treaty of the USSR with the interested foreign state.

12. Mineral resources extracted by Soveit enterprises in seabed areas, and also data and samples obtained in the course of exploring these mineral resources, shall be in the state of ownership of the USSR.

13. In the event work relating to the exploration and exploitation of mineral resources of seabed areas is carried on by Soviet enterprises with the participation of foreign physical and juridical persons, the mineral resources extracted in seabed areas, as well as the data and samples obtained in the course of exploring these mineral resources, may in accordance with the treaty between the USSR and interested foreign state wholly or partially be the ownership of that state or of physical and juridical persons under its jurisdiction.

14. When work is carried on by Soviet enterprises relative to the exploration and exploitation of mineral resources of seabed areas, necessary measures should be taken which ensure the effectiveness of protecting the environment against harmful influences which may arise as a consequence of carrying on such work.

15. For a violation of the provisions of the present Edict or of rules promulgated in execution thereof, guilty Soviet officials and citizens shall bear criminal, administrative, or other responsibility in accordance with USSR and union republic legislation.

16. When disputes arise with agencies of foreign states in connection with the issuance to Soviet enterprises of permits for the exploration or exploitation of mineral resources of seabed areas, as well as in connection with the performance by foreign juridical and physical persons of actions which create obstances for Soviet enterprises in carrying on the work provided for by the said permits, competent Soviet agencies shall take necessary measures settle them in accordance with the procedure provided for by the United Nations Charter.

In the event that damage is caused by foreign juridical and physical persons to the property of Soviet enterprises which are carrying out work relating to the exploration and exploitation of mineral resources of seabed areas, the competent Soviet agencies shall take measures to recover the losses incurred in the established procedure.

17. Competent Soviet agencies shall ensure the safety of citizens who participate in work carried on by Soviet enterprises relative to the exploration and exploitation of mineral resources of seabed areas, as well as the preservation of property used for carrying on such work.

18. A special fund shall be created in the procedure and amounts established by the USSR Council of Ministers from part of the assets received from the exploitation by Soviet enterprises of mineral resources of seabed areas.

The assets in the fund may be transferred to a future international organization for the seabed for the purpose of fulfilling obligations of the USSR which arise in connection with a new convention on the law of the sea being worked out.

19. The procedure for issuing permits for the exploration and exploitation of mineral resources of seabed areas and for carrying on such work shall be determined by the USSR Council of Ministers.

20. The present Edict shall be repealed after the entry into force for the USSR of a new convention on the law of the sea.

Agreement Concerning Interim Arrangements Relating to Polymetallic Nodules of the Deep Sea-Bed. May 13, 1982*

* The Reciprocating States Agreement. 21 I.L.M. 950 (1982).

AGREEMENT CONCERNING INTERIM ARRANGEMENTS RELATING TO POLYMETALLIC NODULES OF THE DEEP SEA BED

The Parties to this Agreement:

Having regard to investments made in exploration, research and other pioneer activities relating to the polymetallic nodules of the deep sea bed;

Noting the adoption by the Third United Nations Conference on the Law of the Sea of a Convention on the Law of the Sea and of a Resolution Governing Preparatory Investment in Pioneer Activities Relating to Polymetallic Nodules prior to the entry into force of the Convention on the Law of the Sea, and the provision of that Resolution concerning resolution of conflicts among pioneer operators;

Recalling the interim character of legislation with respect to deep sea bed operations enacted by certain Parties;

Desiring to make appropriate provisions for avoiding overlaps in the areas claimed for future pioneer activities in the deep sea bed and to ensure that, during the interim period, such activities are carried out in an orderly and peaceful manner;

Emphasizing that this Agreement is without prejudice to the decisions of the Parties with respect to the Convention on Law of the Sea adopted by the Third United Nations Conference on the Law of the Sea;

Desiring also to avoid any discrimination among Parties in the implementation of this Agreement;

Desiring further to insure that adequate areas containing polymetallic nodules remain available for operations by other states and entities in conformity with international law;

Have agreed as follows:

1. The object of the present Agreement is to facilitate the identification and resolution of conflicts which may arise from the filing and processing of applications for authorizations made by Pre-Enactment Explorers (PEEs) on or before March 12, 1982 under legislation in respect of deep sea bed operations enacted by any of the Parties.

2. In the case of a conflict between the areas claimed in such applications, the Parties shall afford the applicants adequate opportunity, and shall encourage them, to resolve such conflict in a timely manner by voluntary procedures.

3. The Parties with whom applications for authorizations have been made by PEEs on or before March 12, 1982 shall follow the procedures set out in Part I of the Schedule hereto in respect of such applications.

4. The Parties shall consult together:

(*a*) with a view to coordinating and reviewing implementation of this Agreement;

(*b*) before issuing any authorization under their respective laws relating to deep sea bed operations;

(*c*) in regard to consideration of any arrangement to facilitate mutual recognitions of such authorizations it being understood that any such arrangement shall not enter into force before January 1, 1983;

(*d*) before entering into any other bilateral or any multilateral arrangement between themselves or any arrangement with other States, with respect to deep sea bed operations.

5. In the event that any of the Parties with whom applications for authorizations have been made by PEEs on or before March 12, 1982 enter into an agreement for the mutual recognition of authorizations granted under their respective laws in respect of deep sea bed operations, the Parties concerned shall apply the procedures and impose the requirements set out in Part II of the Schedule hereto.

6. To the extent permissible under national law, a Party shall maintain the confidentiality of the coordinates of application areas and other proprietary or confidential commercial information received in confidence from any other Party in pursuance of cooperation under this Agreement in accordance with the principles set out in Part III of the Schedule hereto.

7. The Parties shall settle any dispute arising from the interpretation or application of this Agreement by appropriate means. The Parties to the dispute shall consider the possibility of recourse to binding arbitration and, if they agree, shall have recourse to it.

8. The Schedule hereto is an integral part of this Agreement and Part IV thereof shall apply for the interpretation of this Agreement.

9. The Parties shall not enter into any supplementary international agreement inconsistent with this Agreement.

10. This Agreement may be amended by written agreement of all the Parties.

11. This Agreement shall enter into force upon signature.

12. After entry into force of this Agreement, additional States may be invited to accede to this Agreement at any time with the consent of all Parties.

13. Any Party may denounce this Agreement on 30 days' notice to the Government of the United States of America, and in no case shall the denunciation have effect before January 3, 1983.

Done at Washington this second day of September, 1982, in the English, German and French languages, all texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the United States of America, which will transmit a duly certified copy to each of the other signatory Governments.

THE SCHEDULE

PART I

Application Procedures for Pre-Enactment Explorers

1. Each Party as provided in paragraph 3 of the Agreement shall forthwith inform the other Parties of entities which have filed applications with it.

2. Any application filed on or before March 12, 1982 shall be deemed to be filed on that date.

3. Each Party shall with all dispatch determine whether:

(*a*) each application filed with it fulfills its domestic requirements;

(*b*) the applicant is a PEE with respect to the area applied for (an applicant filing on behalf of a PEE shall itself be deemed a PEE for that application);

(*c*) the area is bounded by a continuous boundary;

(*d*) the area is reasonably compact.

4. Each Party shall:

(*a*) notify the other Parties of the results of the initial processing under paragraph 3 above;

(*b*) with the other Parties establish the final list of applications to which this Agreement applies;

(*c*) inform the other Parties whether the applicant has applied for the same area, or substantially the same area, to one or more other Parties;

(*d*) if the applicant agrees, inform the other Parties of the coordinates of the area specified in any application filed with it;

(*e*) endeavor to determine the exact locations of any conflicts.

5. No Party shall issue any authorization before January 3, 1983.

6. Where it is informed of the relevant coordinates, each Party shall notify each of its applicants who is involved in a conflict that a conflict exists. Such notification shall include coordinates identifying the areas in conflict and the identity of each applicant with whom conflict has arisen.

7. Each Party shall ensure that domestic conflicts are resolved pursuant to its respective domestic requirements. Upon agreement of the applicants, domestic conflicts may be resolved in accordance with the international conflict resolution procedures specified in the Schedule. The Parties shall enter into consultations if it appears that the resolution of a domestic conflict might affect the international conflict resolution procedures, or *vice versa*.

8. (1) Each Party shall accept amendments to applications to which this Agreement applies only if they:

(*a*) pertain to areas with respect to which the applicant is a PEE (the area applied for in an amendment need not be adjacent to the area applied for in the original application); and

(*b*) are made in order to resolve an existing conflict with respect to that application.

(2) Each Party shall process any amendment filed pursuant to this paragraph in accordance with the procedures described in the foregoing provisions of this Part except that paragraphs 2, 3(*c*), 3(*d*), and 4(*c*) shall not apply to amendments.

(3) Amendments filed under paragraph 8 of the Schedule shall be eligible for mutual recognition in accordance with the terms of an agreement entered into by any of the Parties pursuant to paragraph 5 of the Agreement.

PART II

Conflict Resolution for Pre-Enactment Explorers

9. (1) Where there is an international conflict, the Parties shall use their good offices to assist the applicants to resolve the conflict by voluntary procedures.

(2) If, within six months from the entry into force of an agreement between the Parties referred to in paragraph 5 of the Agreement, notwithstanding the good offices of the Parties, all applicants involved in an international conflict have not resolved that conflict, or are not parties to a written agreement submitting the conflict to a specified binding conflict resolution procedure, the conflict shall be resolved by binding arbitration in accordance with Appendices 1 and 2 if a Party so elects.

(3) The procedures provided in the Appendices shall commence ten days after a Party notifies the other Party or Parties of the decision to elect arbitration.

PART III

Principles of Confidentiality

10. In implementing the provisions of paragraph 6 of the Agreement, Parties shall apply the following principles:

(*a*) The confidentiality of the coordinates of application areas shall be maintained until any conflict involving such area is resolved and the relevant authorization is issued, except on the basis of a demonstrated need to know and adequate assurances that the confidentiality of the information shall be maintained by the recipient;

(*b*) The confidentiality of other proprietary or confidential commercial information shall be maintained in accordance with domestic law as long as such information retains its character as such.

PART IV

Definitions

11. In this Agreement:

(*a*) "activities" means the undertakings, commitments of resources, 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;

(*b*) "authorization" means any license, permit, or other authorization issued under the national law of a Party which authorizes the holder to engage in deep sea bed operations in a specified area or areas;

(*c*) "conflict" means the existence of more than one application or amendment covered by this Agreement submitted by different applicants:

(1) whether filed with the same Party or with more than one Party; and

(2) in which the deep sea bed areas applied for overlap in whole or part, to the extent of the overlap;

"international conflict" means a conflict arising from applications or amendments filed with more than one Party;

"domestic conflict" means any other conflict;

(*d*) a "pre-enactment explorer" ("PEE") is an entity which was engaged, prior to the earliest date of enactment of domestic legislation by any Party, in deep sea bed polymetallic nodule exploration by substantial surveying activity with respect to the area applied for; and

(*e*) "polymetallic nodules" means any deposit or accretion on or just below the surface of the deep sea bed consisting of nodules which contain manganese, nickel, cobalt, or copper.

APPENDIX 1

Arbitration Procedure

1. In this Appendix, " Party " means a Party to this Agreement which is also concerned in the arbitration, and " other Party " includes any such Party or Parties.

2. The parties presenting the case shall seek to agree in writing within sixty days after the expiry of the ten-day period provided by paragraph 9(3) of the Schedule on three arbitrators, or, if they agree to have only one arbitrator, on that one arbitrator.

3. Any Party may object to the choice of any arbitrator or arbitrators under paragraph 2, by written notice received by the other Party within thirty days after the expiry of the period provided by paragraph 2 above. Upon objection to any arbitrator by a Party, the other Party may, when three arbitrators have been chosen under paragraph 2, object to either or both of the other arbitrators by written notice received by the other Party within fifteen days after the expiry of the period provided by the immediately preceding sentence.

4. If a Party objects to the choice of any arbitrator in accordance with paragraph 3 or if an arbitrator becomes unable to act, the parties presenting the case shall seek to agree on a replacement in writing within sixty days after receipt of the notice of objection or after the date when the arbitrator becomes unable to act.

If agreement is reached, a Party may object to the choice of a replacement by written notice received by the other Party within thirty days. If the parties presenting the case have not reached agreement, or if a Party objects to the choice of a replacement in accordance with this paragraph, the Secretary-General of the Permanent Court of Arbitration shall appoint a replacement without delay.

5. If the parties presenting the case fail to agree on three arbitrators (or an arbitrator) within the period provided by paragraph 2, three arbitrators shall, on request of a Party, be appointed without delay by the Secretary-General of the Permanent Court of Arbitration.

6. Any arbitrator appointed by the Secretary-General of the Permanent Court of Arbitration shall not be a citizen of a Party, shall have international standing and expertise, and shall have personal characteristics which place him in a neutral position with respect to the subject of the dispute. The Secretary-General shall not be confined to any particular list of arbitrators in making this selection. Appointments by the Secretary-General shall not be open to challenge.

7. Insofar as any matter is not dealt with by Appendix 2 and other relevant provisions of this Agreement, the arbitrator or arbitrators shall, consistent with Appendix 2, be guided by the general principles of law as recognized by the Parties, which, where the case is presented by a Party or Parties means the general principles of public international law (*lex lata*) as recognized by the Parties.

8. The arbitrator or arbitrators shall decide where he or they shall sit and shall, in consultation with the parties presenting the case, adopt rules of procedure consistent with this Appendix.

9. The case will be presented by a Party or by its applicants involved in the conflict, at the option of the Party and each side of the case shall be represented as it sees fit.

10. A Party may intervene as of right.

11. An arbitrator may not abstain from voting on the award. If there are three arbitrators, their award shall be made by a majority vote.

12. The award of the arbitrator or arbitrators shall be rendered within one year from the date of the final appointment of the arbitrator or arbitrators unless all Parties or parties presenting the case otherwise agree or unless the arbitrator or arbitrators for good cause extend the deadline for the making of the award for one or more 30 day periods, in any case not to exceed 120 days.

The award shall be final and binding on the applicants involved in the conflict and on the Parties and shall be enforced by the Parties. The applicants involved in the conflict shall without delay file amendments to their applications consistent with the arbitral award. Within two months of the date of the award, a Party or any applicant represented in the arbitration may request an interpretation of the award. Such interpretation shall be provided within four months of the request.

13. The expense of the arbitration, including the remuneration of the arbitrators, shall be borne by the parties presenting the case. Unless the arbitrator or arbitrators determine otherwise because of the particular circumstances of the case, the parties presenting the case shall bear the expenses in equal shares.

14. If an applicant of a Party is involved in conflicts with two or more applicants of two or more States Parties to this Agreement, every effort shall be made to consolidate the arbitration proceedings.

APPENDIX 2

Principles for Resolution of Conflicts

1. 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:

(*a*) the continuity and extent of activities relevant to each area in conflict and the application area of which it is a part;

(*b*) the date on which each applicant involved in the conflict or predecessor in interest or component organization thereof commenced activities at sea in the application area;

(*c*) the financial cost of activities relevant to each area in conflict and to the application area of which it is a part, measured in constant terms;

(*d*) the time when activities were carried out, and the quality of activities; and

(*e*) such additional factors as the arbitral tribunal determines to be relevant, but excluding a consideration of the future plans of work of the applicants involved in the conflict.

2. When considering the factors specified in paragraph 1, the arbitral tribunal shall hear, and shall, except for purposes of apportionment pursuant to paragraph 3, limit its consideration to all evidence based on the activities specified in paragraph 1, which were conducted on or before January 1, 1982, provided, however, that an applicant must prove at-sea prospecting in the conflict area prior to June 28, 1980 as a pre-condition to presentation of further evidence to the arbitral tribunal regarding activities in the conflict area.

3. In making its determination, the arbitral tribunal may award the entire area in conflict to one applicant involved in the conflict, or the arbitral tribunal may apportion the area among any or all of the applicants involved in the conflict. If, after applying the provisions of paragraph 1 of this Appendix, the arbitral tribunal determines the area in conflict should be apportioned, then the arbitral tribunal shall, to the maximum extent practicable consistent with its application of those provisions, apportion the area in a manner designed to satisfy the plan of work set forth in the application of each applicant which is awarded part of the area.

SIGNATURES

State	*Date of signature*
France	2 Sept. 1982
Germany, Federal Republic of	
United Kingdom	
United States of America	

Printed in England by Her Majesty's Stationery Office
21004—676 3143369 Dd 0593577 C10 10/82

Provisional Understanding Regarding Deep Sea-Bed Matters, August 3, 1984*

* 23 I.L.M. 1354 (1984).

PROVISIONAL UNDERSTANDING REGARDING DEEP SEABED MATTERS

1. (1) No Party shall issue an authorization in respect of an application, or seek registration, for an area included:

(a) within an area which is covered in another application filed in conformity with the agreements for voluntary conflict resolution reached on 18 May 1983 and 15 December 1983 and being still under consideration by another Party;

(b) within an area claimed in any other application which has been filed in conformity with national law and this Agreement,

(i) prior to the signature of this Agreement, or

(ii) earlier than the application or request for registration in question,

and which is still under consideration by another Party; or

(c) within an authorization granted by another Party in conformity with this Agreement.

(2) No Party shall itself engage in deep seabed operations in an area for which, in accordance with this paragraph, it shall not issue an authorization or seek registration.

2. The Parties shall, as far as possible, process applications without delay. To this end, each Party shall, with reasonable dispatch, make an initial examination of each application to determine whether it complies with requirements for minimum content of applications under its national law, and thereafter determine the applicant's eligibility for the issuance of an authorization.

3. Each Party shall immediately notify the other Parties of each application for an authorization which it accepts, including applications already received, and of each amendment to such an application. Each Party shall also immediately notify the other Parties after it has taken action subsequently with respect to an application or any action with respect to an authorization.

4. No Party shall authorize, or itself engage in, exploitation of the hard mineral resources of the deep seabed before 1 January 1988.

5. (1) The Parties shall consult together:

(a) prior to the issuance of any authorization or before themselves engaging in deep seabed operations or seeking registration for an area;

(b) with regard to any arrangements between one or more Parties and another State or States for the avoidance of overlapping in deep seabed operations;

(c) with regard to relevant legal provisions and any modification thereof; and

(d) generally with a view to coordinating and reviewing the implementation of this Agreement.

(2) The relevant Parties shall consult together in the event that two or more applications are filed simultaneously.

6. (1) To the extent permissible under national law, a Party shall maintain the confidentiality of the coordinates of application areas and other proprietary or confidential commercial information received in confidence from any other Party in pursuance of cooperation in regard to deep seabed operations. In particular:

(a) the confidentiality of the coordinates of application areas shall be maintained until any overlap involving such an area is resolved and the relevant authorization is issued; and

(b) the confidentiality of other proprietary or confidential commercial information shall be maintained in accordance with national law as long as such information retains its character as such.

(2) Denunciation or other action by a Party pursuant to paragraph 14 of this Agreement shall not affect the Parties' obligations under this paragraph.

7. (1) The rights and interests of an applicant or of the grantee of an authorization may be transferred, in whole or in part, consistent with national law. Subject to national law, the rights, interests, and obligations of the transferee shall be as set forth in an agreement between the transferor and the transferee.

(2) For the purposes of this Agreement, the transferee is deemed to stand in the same position as that of the transferor for his rights and interests including the right of priority to the extent those rights and interests represent in whole or in part the original rights and interests of the transferor.

8. The Parties shall seek consistency in their application requirements and operating standards.

9. The Parties shall implement this Agreement in accordance with relevant national laws and regulations.

10. The Parties shall settle any dispute arising from the interpretation or application of this Agreement by appropriate means. The Parties to the dispute shall consider the possibility of recourse to binding arbitration and, if they agree, shall have recourse to it.

11. This Agreement, which includes Appendices I and II, may be amended only by written agreement of all Parties.

12. (1) This Agreement shall enter into force 30 days after signature.

(2) A Party which has not adopted the necessary legal provisions for the issue of authorizations may, by a declaration relating to its signature of this Agreement, limit the application of this Agreement to the parts thereof other than those relating to the issue of authorizations. Where such a Party adopts legal provisions which, in the view of the other Parties, are similar in aims and effects to their own legal provisions, the first mentioned Party shall notify all other Parties that it accepts fully the provisions of this Agreement. Such a Party may also declare, upon signature, that, for constitutional reasons, this Agreement shall become effective for it only after notification to all other Parties.

13. After entry into force of this Agreement, additional States may, with the consent of all Parties, be invited to accede to this Agreement.

14. (1) A Party may denounce this Agreement by written notice to all other Parties, subject to the provisions of paragraph 6. Such denunciation shall become effective 180 days from the date of the latest receipt of such notice.

(2) A Party may, for good cause related to the implementation of this Agreement, after consultation, serve written notice on another Party that, from a

date not less than 90 days thereafter, it will cease to give effect to paragraph 1 of this Agreement in respect of such other Party. The rights and obligations of these two Parties towards the other Parties remain unaffected by such notice.

(3) Subsequent to such notice referred to in subparagraphs (1) and (2), the Parties concerned shall seek, to the extent possible, to mitigate adverse effects resulting therefrom.

15. This Agreement is without prejudice to, nor does it affect, the positions of the Parties, or any obligations assumed by any of the Parties, in respect of the United Nations Convention on the Law of the Sea.

DONE at Geneva on 3 August 1984, in eight copies in the English, French, German, Italian, Japanese and Netherlands languages, each of which shall be equally authentic.

FAIT à Genève le 3 Août 1984, en huit exemplaires en langue anglaise, francaise, allemande, italienne, japonaise et néerlandaise, chacune faisant également foi.

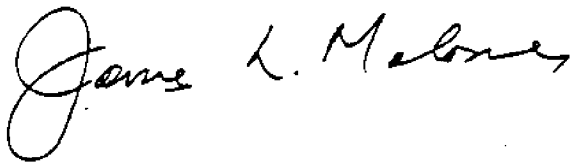
GESCHEHEN zu Genf am 3 August 1984 in acht Urschriften in englischer, französischer, deutscher, italienischer, japanischer und niederländischer Sprache, wobei jeder Wortlaut gleichermassen verbindlich ist.

FATTO a Ginevra, il 3 Agosto 1984, in otto copie, nelle lingue inglese, francese, tedesca, giapponese, italiana ed olandese, ciascuno dei testi facente egualmente fede.

千九百八十四年八月三日にジュネーヴで、ひとしく正文である英語、フランス語、ドイツ語、イタリア語、日本語及びオランダ語により本書八通を作成した。

GEDAAN te Genève, op 3 Augustus 1984, in achtvoud, in de Engelse, de Franse, de Duitse, de Italiaanse, de Japanse en de Nederlandse taal, waarbij elk van de teksten gelijkelijk authentiek is.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:
POUR LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE:
FUER DIE REGIERUNG DER VEREINIGTEN STAATEN VON AMERIKA:
PER IL GOVERNO DEGLI STATI UNITI D'AMERICA:
アメリカ合衆国政府のために
VOOR DE REGERING VAN DE VERENIGDE STATEN VAN AMERIKA:



FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM:
POUR LE GOUVERNEMENT DU ROYAUME DE BELGIQUE:
FUER DIE REGIERUNG DES KOENIGREICHS BELGIEN:
PER IL GOVERNO DEL REGNO DEL BELGIO:
ベルギー王国政府のために
VOOR DE REGERING VAN HET KONINKRIJK BELGIE:

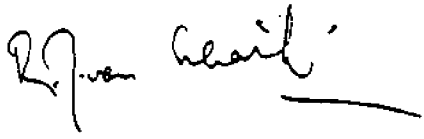
FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:
POUR LE GOUVERNEMENT DE LA REPUBLIQUE FRANCAISE:
FUER DIE REGIERUNG DER FRANZOESISCHEN REPUBLIK:
PER IL GOVERNO DELLA REPUBBLICA FRANCESE:
フランス共和国政府のために
VOOR DE REGERING VAN DE FRANSE REPUBLIEK:

FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY:
POUR LE GOUVERNEMENT DE LA REPUBLIQUE FEDERALE D'ALLEMAGNE:
FUER DIE REGIERUNG DER BUNDESREPUBLIK DEUTSCHLAND:
PER IL GOVERNO DELLA REPUBBLICA FEDERALE DI GERMANIA
ドイツ連邦共和国政府のために
VOOR DE REGERING VAN DE BONDSREPUBLIEK DUITSLAND:

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC:
POUR LE GOUVERNEMENT DE LA REPUBLIQUE ITALIENNE
FUER DIE REGIERUNG DER ITALIENISCHEN REPUBLIK
PER IL GOVERNO DELLA REPUBBLICA ITALIANA:
イタリア共和国政府のために
VOOR DE REGERING VAN DE ITALIAANSE REPUBLIEK:

FOR THE GOVERNMENT OF JAPAN:
POUR LE GOUVERNEMENT DU JAPON:
FUER DIE REGIERUNG JAPANS:
PER IL GOVERNO DEL GIAPPONE:
日本国政府のために
VOOR DE REGERING VAN JAPAN:

FOR THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS:
POUR LE GOUVERNEMENT DU ROYAUME DES PAYS-BAS:
FUER DIE REGIERUNG DES KOENIGREICHS DER NIEDERLANDE:
PER IL GOVERNO DEL REGNO DEI PAESI BASSI:
オランダ王国政府のために
VOOR DE REGERING VAN HET KONINKRIJK DER NEDERLANDEN:



FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:
POUR LE GOUVERNEMENT DU ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD:
FUER DIE REGIERUNG DES VEREINIGTEN KOENIGREICHS GROSSBRITANNIEN UND NORDIRLAND:
PER IL GOVERNO DEL REGNO UNITO DI GRAN BRETAGNA E IRLANDA DEL N
グレート・ブリテン及び北部アイルランド連合王国政府のために
VOOR DE REGERING VAN HET VERENIGDE KONINKRIJK VAN GROOT-BRITTAN EN NOORD-IERLAND:

APPENDIX I

DEFINITIONS

For the purposes of this Agreement:

"Application filed in conformity with the agreements for voluntary conflict resolution reached on 18 May 1983 and 15 December 1983" as referred to in paragraph 1(1)(a) of this Agreement means the original application as amended as a consequence of, or in order to give effect to, those agreements; where identical applications have been filed with more than one Party, they shall, for the purpose of paragraph 1(1)(a) of this Agreement, be treated as a single application; applicant in relation to applications referred to in paragraph 1(1)(a) of this Agreement means the original applicant or applicants in respect of an application, or in his or their place the transferee or transferees of such applicant or applicants as provided in paragraph 7 of this Agreement, or the nominee or nominees who act on behalf of such applicant or applicants;

"Agreements for voluntary conflict resolution" as referred to in paragraph 1(1)(a) of this Agreement means the agreements between Association Francaise Pour l'Etude et la Recherche des Nodules (AFERNOD), Deep Ocean Resources Development Co., Ltd. (DORD), Kennecott Consortium (KCON), Ocean Mining Associates (OMA), Ocean Minerals Company (OMCO), Ocean Management, Inc. (OMI), or any of them;

"Authorization" means an authorization to engage in deep seabed operations;

"Deep seabed operations" means operations, other than prospecting, in relation to the hard mineral resources of the deep seabed in a specified area or areas;

"Hard mineral resources" means any deposit or accretion on or just below the surface of the deep seabed consisting of nodules which contain manganese, nickel, cobalt, or copper; and

"Registration" means any registration or other act by an authority which is recognized or accepted by the Party in question as conferring or confirming any right or authorization to engage in deep seabed operations.

APPENDIX II

NOTIFICATION

A. A notice relating to an application or amendment, as provided by paragraph 3 of this Agreement shall include:

(a) the identity of the applicant;

(b) the coordinates of the area of the application or amendment;

(c) the date and time the application or amendment was filed (expressed in Greenwich Mean Time to the nearest minute);

(d) the type of authorization applied for;

(e) a statement of the duration of activities applied for; and

(f) such other information as the notifying Party considers appropriate.

B. A notice relating to subsequent action or to authorizations shall include all necessary data, a copy of the legal documentation effecting the action and the operative date.

C. Each notice concerning the coordinates of an area of the deep seabed shall define the boundary by the geodetic coordinates of the turning points in accordance with the World Geodetic System 1972 (WGS 72). Any line defining the boundary between turning points must be a geodesic.

MEMORANDUM ON THE IMPLEMENTATION OF THE PROVISIONAL UNDERSTANDING REGARDING DEEP SEABED MATTERS

With respect to the implementation of the Provisional Understanding Regarding Deep Seabed Matters signed on 3 August 1984, the representatives of the Governments of the United States of America, the Kingdom of Belgium, the French Republic, the Federal Republic of Germany, the Italian Republic, Japan, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland have confirmed their intention to give effect to the following:

Eligibility

1. (1) Each Party will issue or transfer an authorization only to applicants:

(a) which are financially and technologically qualified to conduct the proposed deep seabed operations;

(b) which comply with all requirements of the Party's national law; and

(c) whose deep seabed operations will be carried out in accordance with the standards prescribed below.

(2) The relevant Parties will consult prior to the issuance or transfer of an authorization to an applicant who has previously been denied an authorization or had an authorization revoked for the same area by

another Party, or who has relinquished the same area under an authorization of another Party.

Size of Area

2. (1) Each Party will issue or transfer an authorization only for an area in which the deep seabed operations authorized can be conducted within the initial duration of the authorization in an efficient, economical and orderly manner with due regard for conservation and protection of the environment, taking into consideration, as appropriate, the resource data, other relevant physical and environmental characteristics and the state of the technology of the applicant, as set forth in the plan of operations.

(2) Upon request of any other Party, a Party will provide, within 30 days, a written statement of reasons why that Party has approved an application area of a particular size.

Standards

3. (1) Each Party will take all necessary measures so that deep seabed operations under its control:

(a) are conducted with reasonable regard to the interests of other States in the exercise of the freedom of the high seas;

(b) will include efforts to protect the quality of the environment and will not result in significant adverse effects on the environment;

(c) have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the authorization area;

(d) do not adversely affect the safety of life and property at sea in accordance with generally accepted international standards;

(e) are conducted diligently by maintaining a reasonable level of operation based on the size of area and other relevant factors; and

(f) are monitored for their effects on the environment.

(2) In accordance with its national law each Party will ensure that persons subject to its jurisdiction minimize interference with any activity authorized under an authorization issued by another Party.

(3) Each Party will cooperate in developing measures, consistent with its national law, needed to implement the provisions of the Agreement and of this Memorandum so that, in general function and effect, these measures are compatible with, comparable to, and as effective as those established by the other Parties.

Administrative Requirements

4. To enforce effectively the standards described in paragraph 3 of this Memorandum, each Party will employ, as appropriate, measures such as: imposing reasonable penalties for violation of requirements; placing observers on vessels to monitor compliance; suspending, revoking, or modifying authorizations; and, issuing orders in an emergency to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea.

Following the signature of the Provisional Understanding Regarding Deep Seabed Matters, the Parties notified each other of the identities of the applicants and the dates of receipt of the applications already received. Having regard to the assurance of the representatives of the Federal Republic of Germany that the area of the application filed on their own behalf by Metallgesellschaft AG, Preussag AG, and Salzgitter AG, as partners of Arbeitsgemeinschaft Meerestechnisch gewinnbare Rohnstoffe (AMR) is outside the Clarion Clipperton Zone, the Parties to the Provisional Understanding noted that that application falls under paragraph 1(1)(b)(i) of the Provisional Understanding.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC:

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM:

FOR THE GOVERNMENT OF JAPAN:

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:

FOR THE GOVERNMENT OF THE KINGDOM OF THE NETHERLA

FOR THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY:

FOR THE GOVERNMENT OF T UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

3 August 1984, Geneva

N. MARITIME BOUNDARIES

The Grisbadarna Case (Nor. V. Swed.) (excerpts), October 23, 1909*

* Hague Ct. Rep. (Scott) 121-123, and 127-133 (1909).

THE GRISBADARNA CASE

between

NORWAY *and* **SWEDEN**

Decided October 23, 1909

Syllabus

By a *compromis* signed on March 14, 1908,[1] Norway and Sweden agreed to arbitrate the question of the maritime boundary between the two countries in so far as it had not been regulated by the Royal Resolution of March 15, 1904.[2] The arbitral tribunal was called upon to decide whether the boundary was fixed either in whole or in part by the boundary treaty of 1661, and, if not, to fix the boundary or parts thereof in accordance with the principles of international law. The tribunal consisted of a national from each of the two Governments and an umpire chosen from a neutral Power. As finally agreed upon, it was composed as follows: J. A. Loeff of Holland, F. V. N. Beichmann of Norway, and K. Hj. L. Hammarskjöld of Sweden. Only the last-named was a member of the Permanent Court of Arbitration at The Hague. The tribunal held sessions from August 28 to October 18, 1909, in the course of which it visited the disputed zone. The decision was rendered on October 23, 1909.

The tribunal found that the boundary line had not been fixed by the treaty of 1661 beyond a certain point, and that a portion of the line within that point was uncertain. The tribunal therefore fixed the boundary according to the principles in force and applied by Norway and Sweden when the original boundary treaty was made. The application of these principles resulted in a line which gave the Grisbadarna fishing banks to Sweden and the Skjöttegrunde to Norway. Such a division was also supported by the state of things which the tribunal found had actually existed for a long time, especially the use made of the banks by the fishermen of the two countries and the acts of possession and ownership exercised by the two Governments.

[1] *Post*, p. 133.

[2] *Post*, p. 136.

AWARD OF THE TRIBUNAL

Arbitral award in the question of the delimitation of a certain part of the maritime boundary between Norway and Sweden.—The Hague, October 23, 1909.[1]

Whereas, by convention dated March 14, 1908,[2] Norway and Sweden agreed to submit to the final decision of a tribunal of arbitration, comprised of a president who shall neither be a subject of either of the contracting parties nor domiciled in either of the two countries, and of two other members of whom one shall be a Norwegian and the other a Swede, the question of the maritime boundary between Norway and Sweden as far as this boundary has not been determined by the Royal Resolution of March 15, 1904;[3]

Whereas, in pursuance to said convention, the two Governments have appointed respectively as president and arbitrators:

Mr. J. A. Loeff, Doctor of Law and Political Sciences, former Minister of Justice, member of the Second Chamber of the States-General of the Netherlands;

Mr. F. V. N. Beichmann, President of the Court of Appeals of Trondhjem, and

Mr. K. Hj. L. Hammarskjöld, Doctor of Law, former Minister of Justice, former Minister of Public Worship and Public Construction, former Envoy Extraordinary and Minister Plenipotentiary to Copenhagen, former President of the Court of Appeals of Jönköping, former professor in the Faculty of Law of Upsal, Governor of the Province of Upsal, member of the Permanent Court of Arbitration;

Whereas, in accordance with the provisions of the convention, the memorials, counter-memorials, and replies have been duly exchanged between the parties and communicated to the arbitrators within the periods fixed by the president of the tribunal;

Whereas, the two Governments have respectively appointed as agents, to wit:

The Government of Norway, Mr. Kristen Johanssen, attorney at the Supreme Court of Norway; and the Government of Sweden, Mr. C. O. Montan, former member of the Court of Appeals of Svea, judge in the Mixed Court of Alexandria;

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[1] *American Journal of International Law*, vol. 4, p. 226. For the original French text, see Appendix, p. 487.

[2] *Post*, p. 133.

[3] *Post*, p. 136.

Whereas, it has been agreed by Article 2 of the convention:

1. That the tribunal of arbitration shall determine the boundary line in the waters from point 18 on the chart[1] annexed to the proposal of the Norwegian and Swedish commissioners of August 18, 1897, into the sea up to the limit of the territorial waters;

2. That the lines limiting the zone which is the subject of litigation in consequence of the conclusions of the parties and within which the boundary-line shall consequently be established, must not be traced in such a way as to comprise either islands, islets, or reefs which are not constantly under water;

Whereas, it has likewise been agreed by Article 3 of the said convention:

1. That the tribunal of arbitration shall determine whether the boundary line is to be considered, either wholly or in part, as being fixed by the boundary treaty of 1661 together with the chart thereto annexed, and in what manner the line thus established should be traced.

2. That, as far as the boundary-line shall not be considered as established by said treaty and said chart, the tribunal shall determine this boundary-line, taking into account the circumstances of fact and the principles of international law;

[1] *Post*, opposite p. 140.

Whereas, Norway has held the contention, which for that matter has not been rejected by Sweden, that from the sole fact of the Peace of Roskilde in 1658 the maritime territory in question was divided automatically between her and Sweden;

Whereas, the tribunal fully indorses this opinion;

Whereas, this opinion is in conformity with the fundamental principles of the law of nations, both ancient and modern, in accordance with which the maritime territory is an essential appurtenance of land territory, whence it follows that at the time when, in 1658, the land territory called the Bohuslan was ceded to Sweden, the radius of maritime territory constituting an inseparable appurtenance of this land territory must have automatically formed a part of this cession;

Whereas, it follows from this line of argument that in order to ascertain which may have been the automatic dividing line of 1658 we must have recourse to the principles of law in force at that time;

Whereas, Norway claims that, inside (on this side) of the Koster-Tisler line, the rule of the boundary documents of 1661 having been that the boundary ought to follow the median line between the islands, islets, and reefs on both sides, the same principle should be applied with regard to the boundary beyond this line;

Whereas, it is not demonstrated that the boundary-line fixed by the treaty and traced on the boundary chart was based on this rule.

and there are some details and peculiarities in the line traced which even give rise to serious doubts in this regard, and even if one admitted the existence of this rule in connection with the boundary-line fixed by the treaty, it would not necessarily follow that the same rule ought to have been applied in determining the boundary in the exterior territory;

Whereas, in this connection,

The boundary treaty of 1661 and the chart thereto annexed make the boundary-line *begin* between the Koster and Tisler Islands;

Whereas, in determining the boundary-line they went in a direction from the sea toward the coast and not from the coast toward the sea;

Whereas, it is out of the question to say that there might have been a continuation of this boundary-line in a seaward direction;

Whereas, consequently, the connecting link is lacking in order to enable us to presume, without decisive evidence, that the same rule was applied simultaneously to the territories situated this side and to those situated that side of the Koster-Tisler line;

Whereas, moreover, neither the boundary treaty nor the chart appertaining thereto mention any islands, islets, or reefs situated beyond the Koster-Tisler line, and therefore, in order to keep within the probable intent of these documents we must disregard such islands, islets, and reefs;

Whereas, again, the maritime territory belonging to a zone of a certain width presents numerous peculiarities which distinguish it from the land territory and from the maritime spaces more or less completely surrounded by these territories;

Whereas, furthermore, in the same connection, the rules regarding maritime territory can not serve as a guide in determining the boundary between two contiguous countries, especially as, in the present case, we have to determine a boundary which is said to have been automatically traced in 1658, whereas the rules invoked date from subsequent centuries;

And it is the same way with the rules of Norwegian municipal law concerning the definition of boundaries between private properties or between administrative districts;

Whereas, for all these reasons, one can not adopt the method by which Norway has proposed to define the boundary from point 20 to the territorial limit;

Whereas, the rule of drawing a median line midway between the inhabited lands does not find sufficient support in the law of nations in force in the seventeenth century;

Whereas, it is the same way with the rule of the *thalweg* or the most important channel, inasmuch as the documents invoked for the purpose do not demonstrate that this rule was followed in the present case. And,

Whereas, we shall be acting much more in accord with the ideas of the seventeenth century and with the notions of law prevailing at that time if we admit that the automatic division of the territory in question must have taken place according to the general direction of the land territory of which the maritime territory constituted an appurtenance, and if we consequently apply this same rule at the present time in order to arrive at a just and lawful determination of the boundary;

Whereas, consequently, the automatic dividing line of 1658 should be determined (or, what is exactly the same thing expressed in other words), the delimitation should be made to-day by tracing a line perpendicularly to the general direction of the coast, while taking into account the necessity of indicating the boundary in a clear and unmistakable manner, thus facilitating its observation by the interested parties as far as possible;

Whereas, in order to ascertain what is this direction we must take equally into account the direction of the coast situated on both sides of the boundary;

Whereas, the general direction of the coast, according to the expert and conscientious survey of the tribunal, swerves about 20 degrees westward from due north, and therefore the perpendicular line should run toward the west to about 20 degrees to the south;

Whereas, the parties agree in admitting the great unsuitability of tracing the boundary-line across important bars; and

A boundary-line drawn from point 20 in a westerly direction to 19 degrees to the south would completely obviate this inconvenience, since it would pass just to the north of the Grisbadarna and to the south of Skjöttegrunde and would also not cut through any other important bank; and

Consequently, the boundary-line ought to be traced from point 20 westward to 19 degrees south, so that it would pass midway between

the Grisbadarna banks on the one side and Skjöttegrunde on the other;

Whereas, although the parties have not indicated any marks of alignment for a boundary-line thus traced there is reason to believe that it will not be impossible to find such marks;

Whereas, on the other hand, we could, if necessary, avail ourselves of other known methods of marking the boundary;

Whereas, a demarkation which would assign the Grisbadarna to Sweden is supported by all of several circumstances of fact which were pointed out during the discussion and of which the following are the principal ones:

(*a*) The circumstance that lobster fishing in the shoals of Grisbadarna has been carried on for a much longer time, to a much larger extent, and by a much larger number of fishermen by the subjects of Sweden than by the subjects of Norway.

(*b*) The circumstance that Sweden has performed various acts in the Grisbadarna region, especially of late, owing to her conviction that these regions were Swedish, as, for instance, the placing of beacons, the measurement of the sea, and the installation of a lightboat, being acts which involved considerable expense and in doing which she not only thought that she was exercising her right but even more that she was performing her duty; whereas Norway, according to her own admission, showed much less solicitude in this region in these various regards;

Whereas, as regards the circumstance of fact mentioned in paragraph *a* above, it is a settled principle of the law of nations that a state of things which actually exists and has existed for a long time should be changed as little as possible; and

This rule is specially applicable in a case of private interests which, if once neglected, can not be effectively safeguarded by any manner of sacrifice on the part of the Government of which the interested parties are subjects; and

Lobster fishing is much the most important fishing on the Grisbadarna banks, this fishing being the very thing that gives the banks their value as fisheries; and

Without doubt the Swedes were the first to fish lobsters by means of the tackle and craft necessary to engage in fishing as far out at sea as the banks in question are situated; and

Fishing is, generally speaking, of more importance to the inhabitants of Koster than to those of Hvaler, the latter having, at least until comparatively recent times, engaged rather in navigation than fishing; and

From these various circumstances it appears so probable as to be almost certain that the Swedes utilized the banks in question much earlier and much more effectively than the Norwegians; and

The depositions and declarations of the witnesses are, generally speaking, in perfect harmony with this conclusion; and

The arbitration convention is likewise in full accord with the same conclusion; and

According to this convention there is a certain connection between the enjoyment of the fisheries of the Grisbadarna and the keeping up of the light-boat, and, as Sweden will be obliged to keep up the light-boat as long as the present state of affairs continues, this shows that, according to the arguments of this clause, the principal enjoyment thereof is now due to Sweden;

Whereas, as regards the circumstances of fact as mentioned under *b*:

As regards the placing of beacons and of a light-boat—

The stationing of a light-boat, which is necessary to the safety of navigation in the regions of Grisbadarna, was done by Sweden without meeting any protest and even at the initiative of Norway, and likewise a large number of beacons were established there without giving rise to any protests; and

This light-boat and these beacons are always maintained by Sweden at her own expense; and

Norway has never taken any measures which are in any way equivalent except by placing a bell-buoy there at a time subsequent to the placing of the beacons and for a short period of time, it being impossible to even compare the expenses of setting out and keeping up this buoy with those connected with the beacons and the light-boat; and

It is shown by the foregoing that Sweden had no doubt as to her rights over the Grisbadarna and that she did not hesitate to incur the expenses incumbent on the owner and possessor of these banks even to the extent of a considerable sum of money.

As to the measurements of the sea—

Sweden took the first steps, about thirty years before the beginning of any dispute, toward making exact, laborious, and expensive measurements of the regions of Grisbadarna, while the measurements made some years later by Norway did not even attain the limits of the Swedish measurements. And

Whereas, therefore, there is no doubt whatever that the assignment of the Grisbadarna banks to Sweden is in perfect accord with the most important circumstances of fact;

Whereas, a demarkation assigning the Skjöttegrunde (which are the least important parts of the disputed territory) to Norway is sufficiently warranted by the serious circumstance of fact that, although one must infer from the various documents and testimony that the Swedish fishermen, as was stated above, have carried on fishing in the regions in question for a longer period, to a greater extent, and in greater numbers, it is certain on the other hand that the Norwegian fishermen have never been excluded from fishing there;

Whereas, moreover, it is averred that the Norwegian fishermen have almost always participated in the lobster fishing on the Skjöttegrunde in a comparatively more effective manner than at the Grisbadarna:

Therefore

The tribunal decides and pronounces:

That the maritime boundary between Norway and Sweden, as far as it was not determined by the Royal Resolution of March 15, 1904, is fixed as follows:

From point 18 situated as indicated on the chart annexed to the project of the Norwegian and Swedish commissioners of August 18, 1897, a straight line is traced to point 19, constituting the middle point of a straight line drawn from the northernmost reef of the Röskären to the southernmost reef of the Svartskjär, the one which is provided with a beacon;

From point 19 thus fixed, a straight line is traced to point 20, which constitutes the middle point of a straight line drawn from the northernmost reef of the group of reefs called Stora Drammen to the Hejeknub situated to the southeast of Heja Islands; from point 20 a straight line is drawn in a direction of west 19 degrees south, which line passes midway between the Grisbadarna

and the Skjöttegrunde south and extends in the same direction until it reaches the high sea.

Done at The Hague, October 23, 1909, in the Palace of the Permanent Court of Arbitration.

J. A. LOEFF, *President*
MICHIELS VAN VERDUYNEN, *Secretary General*
RÖELL, *Secretary*

Fisheries (U.K. v. Nor.) (excerpts), 1951*

* 1951 I.C.J. 116, 118-119, 125,128-133, 138-139 and 141-143 (Judgement of Dec.18). See also Bishop, 46 Am. J. Int'l L. 348 (1952).

INTERNATIONAL COURT OF JUSTICE

YEAR 1951

1951
December 18th
General List:
No. 5

December 18th, 1951

FISHERIES CASE

(UNITED KINGDOM *v.* NORWAY)

Validity in international law of Royal Norwegian Decree of 1935 delimiting Norwegian fisheries zone.— Fisheries zone ; territorial sea. —Special characteristics of Norwegian coast ; "skjærgaard".— Base-line for measuring breadth of territorial sea ; low-water mark.— Outer coast line of "skjærgaard".— Internal waters ; territorial waters.— Tracé parallèle method ; envelopes of arcs of circles method ; straight base-lines method.— Length of straight base-lines ; 10-mile rule for bays ; historic waters.—Straits ; Indreleia.— International interest in delimitation of maritime areas.—General criteria for such delimitation ; general direction of the coast ; relationship between sea areas and land formations.— Norwegian system of delimitation regarded as adaptation of general international law.— Consistency in application of this system.— Absence of opposition or reservations by foreign States.— Notoriety.— Conformity of base-lines adopted by 1935 Decree with principles of international law applicable to delimitation of the territorial sea.

On September 28th, 1949, the Government of the United Kingdom of Great Britain and Northern Ireland filed in the Registry an Application instituting proceedings before the Court against the Kingdom of Norway, the subject of the proceedings being the validity or otherwise, under international law, of the lines of delimitation of the Norwegian fisheries zone laid down by the Royal Decree of July 12th, 1935, as amended by a Decree of December 10th, 1937, for that part of Norway which is situated northward of 66° 28.8′ (or 66° 28′ 48″) N. latitude. The Application refers to the Declarations by which the United Kingdom and Norway have accepted the compulsory jurisdiction of the Court in accordance with Article 36, paragraph 2, of the Statute.

This Application asked the Court

> "*(a)* to declare the principles of international law to be applied in defining the base-lines, by reference to which the Norwegian Government is entitled to delimit a fisheries zone, extending to

seaward 4 sea miles from those lines and exclusively reserved for its own nationals, and to define the said base-lines in so far as it appears necessary, in the light of the arguments of the Parties, in order to avoid further legal differences between them ;

(b) to award damages to the Government of the United Kingdom in respect of all interferences by the Norwegian authorities with British fishing vessels outside the zone which, in accordance with the Court's decision under *(a)*, the Norwegian Government is entitled to reserve for its nationals."

* * *

The Norwegian Royal Decree of July 12th, 1935, concerning the delimitation of the Norwegian fisheries zone sets out in the preamble the considerations on which its provisions are based. In this connection it refers to "well-established national titles of right", "the geographical conditions prevailing on the Norwegian coasts", "the safeguard of the vital interests of the inhabitants of the northernmost parts of the country" ; it further relies on the Royal Decrees of February 22nd, 1812, October 16th, 1869, January 5th, 1881, and September 9th, 1889.

The Decree provides that "lines of delimitation towards the high sea of the Norwegian fisheries zone as regards that part of Norway which is situated northward of 66° 28.8′ North latitude .... shall run parallel with straight base-lines drawn between fixed points on the mainland, on islands or rocks, starting from the final point of the boundary line of the Realm in the easternmost part of the Varangerfjord and going as far as Træna in the County of Nordland". An appended schedule indicates the fixed points between which the base-lines are drawn.

The subject of the dispute is clearly indicated under point 8 of the Application instituting proceedings : "The subject of the dispute is the validity or otherwise under international law of the lines of delimitation of the Norwegian fisheries zone laid down by the Royal Decree of 1935 for that part of Norway which is situated northward of 66° 28.8′ North latitude." And further on : " .... the question at issue between the two Governments is whether the lines prescribed by the Royal Decree of 1935 as the base-lines for the delimitation of the fisheries zone have or have not been drawn in accordance with the applicable rules of international law".

Although the Decree of July 12th, 1935, refers to the Norwegian fisheries zone and does not specifically mention the territorial sea, there can be no doubt that the zone delimited by this Decree is none other than the sea area which Norway considers to be her territorial sea. That is how the Parties argued the question and that is the way in which they submitted it to the Court for decision.

The Parties being in agreement on the figure of 4 miles for the breadth of the territorial sea, the problem which arises is from what base-line this breadth is to be reckoned. The Conclusions of the United Kingdom are explicit on this point : the base-line must be low-water mark on permanently dry land which is a part of Norwegian territory, or the proper closing line of Norwegian internal waters.

The Court has no difficulty in finding that, for the purpose of measuring the breadth of the territorial sea, it is the low-water mark as opposed to the high-water mark, or the mean between the two tides, which has generally been adopted in the practice of States. This criterion is the most favourable to the coastal State and clearly shows the character of territorial waters as appurtenant to the land territory. The Court notes that the Parties agree as to this criterion, but that they differ as to its application.

The Parties also agree that in the case of a low-tide elevation (drying rock) the outer edge at low water of this low-tide elevation may be taken into account as a base-point for calculating the breadth of the territorial sea. The Conclusions of the United Kingdom Government add a condition which is not admitted by Norway, namely, that, in order to be taken into account, a drying rock must be situated within 4 miles of permanently dry land. However, the Court does not consider it necessary to deal with this question, inasmuch as Norway has succeeded in proving, after both Parties had given their interpretation of the charts, that in fact none of the drying rocks used by her as base points is more than 4 miles from permanently dry land.

The Court finds itself obliged to decide whether the relevant low-water mark is that of the mainland or of the "skjærgaard". Since the mainland is bordered in its western sector by the "skjærgaard", which constitutes a whole with the mainland, it is the outer line of the "skjærgaard" which must be taken into account in delimiting the belt of Norwegian territorial waters. This solution is dictated by geographic realities.

Three methods have been contemplated to effect the application of the low-water mark rule. The simplest would appear to be the method of the *tracé parallèle*, which consists of drawing the outer limit of the belt of territorial waters by following the coast in all its sinuosities. This method may be applied without difficulty to an ordinary coast, which is not too broken. Where a coast is deeply indented and cut into, as is that of Eastern Finnmark, or where it is bordered by an archipelago such as the "skjærgaard" along the western sector of the coast here in question, the base-line becomes independent of the low-water mark, and can only be determined by means of a geometrical construction. In such cir-

cumstances the line of the low-water mark can no longer be put forward as a rule requiring the coastline to be followed in all its sinuosities. Nor can one characterize as exceptions to the rule the very many derogations which would be necessitated by such a rugged coast: the rule would disappear under the exceptions. Such a coast, viewed as a whole, calls for the application of a different method; that is, the method of base-lines which, within reasonable limits, may depart from the physical line of the coast.

It is true that the experts of the Second Sub-Committee of the Second Committee of the 1930 Conference for the codification of international law formulated the low-water mark rule somewhat strictly ("following all the sinuosities of the coast"). But they were at the same time obliged to admit many exceptions relating to bays, islands near the coast, groups of islands. In the present case this method of the *tracé parallèle*, which was invoked against Norway in the Memorial, was abandoned in the written Reply, and later in the oral argument of the Agent of the United Kingdom Government. Consequently, it is no longer relevant to the case. "On the other hand", it is said in the Reply, the *courbe tangente*—or, in English, 'envelopes of arcs of circles'—method is the method which the United Kingdom considers to be the correct one"

The arcs of circles method, which is constantly used for determining the position of a point or object at sea, is a new technique in so far as it is a method for delimiting the territorial sea. This technique was proposed by the United States delegation at the 1930 Conference for the codification of international law. Its purpose is to secure the application of the principle that the belt of territorial waters must follow the line of the coast. It is not obligatory by law, as was admitted by Counsel for the United Kingdom Government in his oral reply. In these circumstances, and although certain of the Conclusions of the United Kingdom are founded on the application of the arcs of circles method, the Court considers that it need not deal with these Conclusions in so far as they are based upon this method.

The principle that the belt of territorial waters must follow the general direction of the coast makes it possible to fix certain criteria valid for any delimitation of the territorial sea ; these criteria will be elucidated later. The Court will confine itself at this stage to noting that, in order to apply this principle, several States have deemed it necessary to follow the straight base-lines method and that they have not encountered objections of principle by other States. This method consists of selecting appropriate points on the low-water mark and drawing straight lines between them. This has been done, not only in the case of well-defined bays, but also in cases of minor curvatures of the coast line where it was solely a question of giving a simpler form to the belt of territorial waters.

It has been contended, on behalf of the United Kingdom, that Norway may draw straight lines only across bays. The Court is unable to share this view. If the belt of territorial waters must follow the outer line of the "skjærgaard", and if the method of straight baselines must be admitted in certain cases, there is no valid reason to draw them only across bays, as in Eastern Finnmark, and not also to draw them between islands, islets and rocks, across the sea areas separating them, even when such areas do not fall within the conception of a bay. It is sufficient that they should be situated between the island formations of the "skjærgaard", *inter fauces terrarum*.

The United Kingdom Government concedes that straight lines, regardless of their length, may be used only subject to the conditions set out in point 5 of its Conclusions, as follows :

> "Norway is entitled to claim as Norwegian internal waters, on historic grounds, all fjords and sunds which fall within the conception of a bay as defined in international law (see No. (6) below), whether the proper closing line of the indentation is more or less than 10 sea miles long."

A preliminary remark must be made in respect of this point.

In the opinion of the United Kingdom Government, Norway is entitled, on historic grounds, to claim as internal waters all fjords and sunds which have the character of a bay. She is also entitled on historic grounds to claim as Norwegian territorial waters all the waters of the fjords and sunds which have the character of legal straits (Conclusions, point 9), and, either as internal or as territorial waters, the areas of water lying between the island fringe and the mainland (point 11 and second alternative Conclusion II).

By "historic waters" are usually meant waters which are treated as internal waters but which would not have that character were it not for the existence of an historic title. The United Kingdom Government refers to the notion of historic titles both in respect of territorial waters and internal waters, considering such titles, in both cases, as derogations from general international law. In its opinion Norway can justify the claim that these waters are territorial or internal on the ground that she has exercised the necessary jurisdiction over them for a long period without opposition from other States, a kind of *possessio longi temporis*, with the result that her jurisdiction over these waters must now be recognized although it constitutes a derogation from the rules in force. Norwegian sovereignty over these waters would constitute an exception, historic titles justifying situations which would otherwise be in conflict with international law.

As has been said, the United Kingdom Government concedes

that Norway is entitled to claim as internal waters all the waters of fjords and sunds which fall within the conception of a bay as defined in international law whether the closing line of the indentation is more or less than ten sea miles long. But the United Kingdom Government concedes this only on the basis of historic title; it must therefore be taken that that Government has not abandoned its contention that the ten-mile rule is to be regarded as a rule of international law.

In these circumstances the Court deems it necessary to point out that although the ten-mile rule has been adopted by certain States both in their national law and in their treaties and conventions, and although certain arbitral decisions have applied it as between these States, other States have adopted a different limit. Consequently, the ten-mile rule has not acquired the authority of a general rule of international law.

In any event the ten-mile rule would appear to be inapplicable as against Norway inasmuch as she has always opposed any attempt to apply it to the Norwegian coast.

The Court now comes to the question of the length of the base-lines drawn across the waters lying between the various formations of the "skjærgaard". Basing itself on the analogy with the alleged general rule of ten miles relating to bays, the United Kingdom Government still maintains on this point that the length of straight lines must not exceed ten miles.

In this connection, the practice of States does not justify the formulation of any general rule of law. The attempts that have been made to subject groups of islands or coastal archipelagoes to conditions analogous to the limitations concerning bays (distance between the islands not exceeding twice the breadth of the territorial waters, or ten or twelve sea miles), have not got beyond the stage of proposals.

Furthermore, apart from any question of limiting the lines to ten miles, it may be that several lines can be envisaged. In such cases the coastal State would seem to be in the best position to appraise the local conditions dictating the selection.

Consequently, the Court is unable to share the view of the United Kingdom Government, that "Norway, in the matter of base-lines, now claims recognition of an exceptional system". As will be shown later, all that the Court can see therein is the application of general international law to a specific case.

The Conclusions of the United Kingdom, points 5 and 9 to 11, refer to waters situated between the base-lines and the Norwegian mainland. The Court is asked to hold that on historic grounds these waters belong to Norway, but that they are divided into two categories: territorial and internal waters, in accordance with two criteria which the Conclusions regard as well founded

in international law, the waters falling within the conception of a bay being deemed to be internal waters, and those having the character of legal straits being deemed to be territorial waters.

As has been conceded by the United Kingdom, the "skjærgaard" constitutes a whole with the Norwegian mainland; the waters between the base-lines of the belt of territorial waters and the mainland are internal waters. However, according to the argument of the United Kingdom a portion of these waters constitutes territorial waters. These are *inter alia* the waters followed by the navigational route known as the Indreleia. It is contended that since these waters have this character, certain consequences arise with regard to the determination of the territorial waters at the end of this water-way considered as a maritime strait.

The Court is bound to observe that the Indreleia is not a strait at all, but rather a navigational route prepared as such by means of artificial aids to navigation provided by Norway. In these circumstances the Court is unable to accept the view that the Indreleia, for the purposes of the present case, has a status different from that of the other waters included in the "skjærgaard".

Thus the Court, confining itself for the moment to the Conclusions of the United Kingdom, finds that the Norwegian Government in fixing the base-lines for the delimitation of the Norwegian fisheries zone by the 1935 Decree has not violated international law.

* * *

It does not at all follow that, in the absence of rules having the technically precise character alleged by the United Kingdom Government, the delimitation undertaken by the Norwegian Government in 1935 is not subject to certain principles which make it possible to judge as to its validity under international law. The delimitation of sea areas has always an international aspect; it cannot be dependent merely upon the will of the coastal State as expressed in its municipal law. Although it is true that the act of delimitation is necessarily a unilateral act, because only the coastal State is competent to undertake it, the validity of the delimitation with regard to other States depends upon international law.

In this connection, certain basic considerations inherent in the nature of the territorial sea, bring to light certain criteria which, though not entirely precise, can provide courts with an adequate basis for their decisions, which can be adapted to the diverse facts in question.

Among these considerations, some reference must be made to

the close dependence of the territorial sea upon the land domain. It is the land which confers upon the coastal State a right to the waters off its coasts. It follows that while such a State must be allowed the latitude necessary in order to be able to adapt its delimitation to practical needs and local requirements, the drawing of base-lines must not depart to any appreciable extent from the general direction of the coast.

Another fundamental consideration, of particular importance in this case, is the more or less close relationship existing between certain sea areas and the land formations which divide or surround them. The real question raised in the choice of base-lines is in effect whether certain sea areas lying within these lines are sufficiently closely linked to the land domain to be subject to the regime of internal waters. This idea, which is at the basis of the determination of the rules relating to bays, should be liberally applied in the case of a coast, the geographical configuration of which is as unusual as that of Norway.

Finally, there is one consideration not to be overlooked, the scope of which extends beyond purely geographical factors : that of certain economic interests peculiar to a region, the reality and importance of which are clearly evidenced by a long usage.

Norway puts forward the 1935 Decree as the application of a traditional system of delimitation, a system which she claims to be in complete conformity with international law. The Norwegian Government has referred in this connection to an historic title, the meaning of which was made clear by Counsel for Norway at the sitting on October 12th, 1951 : "The Norwegian Government does not rely upon history to justify exceptional rights, to claim areas of sea which the general law would deny ; it invokes history, together with other factors, to justify the way in which it applies the general law." This conception of an historic title is in consonance with the Norwegian Government's understanding of the general rules of international law. In its view, these rules of international law take into account the diversity of facts and, therefore, concede that the drawing of base-lines must be adapted to the special conditions obtaining in different regions. In its view, the system of delimitation applied in 1935, a system characterized by the use of straight lines, does not therefore infringe the general law ; it is an adaptation rendered necessary by local conditions.

It must be remembered that the request for information to which the Norwegian Government was replying related not to the use of straight lines, but to the breadth of Norwegian territorial waters. The point of the Norwegian Government's reply was that there had been no modification in the Norwegian legislation. Moreover, it is impossible to rely upon a few words taken from a single note to draw the conclusion that the Norwegian Government had abandoned

a position which its earlier official documents had clearly indicated.

The Court considers that too much importance need not be attached to the few uncertainties or contradictions, real or apparent, which the United Kingdom Government claims to have discovered in Norwegian practice. They may be easily understood in the light of the variety of the facts and conditions prevailing in the long period which has elapsed since 1812, and are not such as to modify the conclusions reached by the Court.

In the light of these considerations, and in the absence of convincing evidence to the contrary, the Court is bound to hold that the Norwegian authorities applied their system of delimitation consistently and uninterruptedly from 1869 until the time when the dispute arose.

From the standpoint of international law, it is now necessary to consider whether the application of the Norwegian system encountered any opposition from foreign States.

Norway has been in a position to argue without any contradiction that neither the promulgation of her delimitation Decrees in 1869 and in 1889, nor their application, gave rise to any opposition on the part of foreign States. Since, moreover, these Decrees constitute, as has been shown above, the application of a well-defined and uniform system, it is indeed this system itself which would reap the benefit of general toleration, the basis of an historical consolidation which would make it enforceable as against all States.

The general toleration of foreign States with regard to the Norwegian practice is an unchallenged fact. For a period of more than sixty years the United Kingdom Government itself in no way contested it. One cannot indeed consider as raising objections the discussions to which the *Lord Roberts* incident gave rise in 1911, for the controversy which arose in this connection related to two questions, that of the four-mile limit, and that of Norwegian sovereignty over the Varangerfjord, both of which were unconnected with the position of base-lines. It would appear that it was only in its Memorandum of July 27th, 1933, that the United Kingdom made a formal and definite protest on this point.

The United Kingdom Government has argued that the Norwegian system of delimitation was not known to it and that the system therefore lacked the notoriety essential to provide the basis of an historic title enforceable against it. The Court is unable to accept this view. As a coastal State on the North Sea, greatly interested in the fisheries in this area, as a maritime Power traditionally concerned with the law of the sea and concerned particularly to defend the freedom of the seas, the United Kingdom

could not have been ignorant of the Decree of 1869 which had at once provoked a request for explanations by the French Government. Nor, knowing of it, could it have been under any misapprehension as to the significance of its terms, which clearly described it as constituting the application of a system. The same observation applies *a fortiori* to the Decree of 1889 relating to the delimitation of Romsdal and Nordmöre which must have appeared to the United Kingdom as a reiterated manifestation of the Norwegian practice.

Norway's attitude with regard to the North Sea Fisheries (Police) Convention of 1882 is a further fact which must at once have attracted the attention of Great Britain. There is scarcely any fisheries convention of greater importance to the coastal States of the North Sea or of greater interest to Great Britain. Norway's refusal to adhere to this Convention clearly raised the question of the delimitation of her maritime domain, especially with regard to bays, the question of their delimitation by means of straight lines of which Norway challenged the maximum length adopted in the Convention. Having regard to the fact that a few years before, the delimitation of Sunnmöre by the 1869 Decree had been presented as an application of the Norwegian system, one cannot avoid the conclusion that, from that time on, all the elements of the problem of Norwegian coastal waters had been clearly stated. The steps subsequently taken by Great Britain to secure Norway's adherence to the Convention clearly show that she was aware of and interested in the question.

The Court notes that in respect of a situation which could only be strengthened with the passage of time, the United Kingdom Government refrained from formulating reservations.

The notoriety of the facts, the general toleration of the international community, Great Britain's position in the North Sea, her own interest in the question, and her prolonged abstention would in any case warrant Norway's enforcement of her system against the United Kingdom.

The Court is thus led to conclude that the method of straight lines, established in the Norwegian system, was imposed by the peculiar geography of the Norwegian coast ; that even before the dispute arose, this method had been consolidated by a constant and sufficiently long practice, in the face of which the attitude of governments bears witness to the fact that they did not consider it to be contrary to international law.

The delimitation of the Lopphavet basin has also been criticized by the United Kingdom. As has been pointed out above, its criticism of the selection of base point No. 21 may be regarded as abandoned. The Lopphavet basin constitutes an ill-defined geographic whole. It cannot be regarded as having the character of

a bay. It is made up of an extensive area of water dotted with large islands which are separated by inlets that terminate in the various fjords. The base-line has been challenged on the ground that it does not respect the general direction of the coast. It should be observed that, however justified the rule in question may be, it is devoid of any mathematical precision. In order properly to apply the rule, regard must be had for the relation between the deviation complained of and what, according to the terms of the rule, must be regarded as the *general* direction of the coast. Therefore, one cannot confine oneself to examining one sector of the coast alone, except in a case of manifest abuse ; nor can one rely on the impression that may be gathered from a large scale chart of this sector alone. In the case in point, the divergence between the base-line and the land formations is not such that it is a distortion of the general direction of the Norwegian coast.

Even if it were considered that in the sector under review the deviation was too pronounced, it must be pointed out that the Norwegian Government has relied upon an historic title clearly referable to the waters of Lopphavet, namely, the exclusive privilege to fish and hunt whales granted at the end of the 17th century to Lt.-Commander Erich Lorch under a number of licences which show, *inter alia*, that the water situated in the vicinity of the sunken rock of Gjesbaaen or Gjesboene and the fishing grounds pertaining thereto were regarded as falling exclusively within Norwegian sovereignty. But it may be observed that the fishing grounds here referred to are made up of two banks, one of which, the Indre Gjesboene, is situated between the base-line and the limit reserved for fishing, whereas the other, the Ytre Gjesboene, is situated further to seaward and beyond the fishing limit laid down in the 1935 Decree.

These ancient concessions tend to confirm the Norwegian Government's contention that the fisheries zone reserved before 1812 was in fact much more extensive than the one delimited in 1935. It is suggested that it included all fishing banks from which land was visible, the range of vision being, as is recognized by the United Kingdom Government, the principle of delimitation in force at that time. The Court considers that, although it is not always clear to what specific areas they apply, the historical data produced in support of this contention by the Norwegian Government lend some weight to the idea of the survival of traditional rights reserved to the inhabitants of the Kingdom over fishing grounds included in the 1935 delimitation, particularly in the case of Lopphavet. Such rights, founded on the vital needs of the population and attested by very ancient and peaceful usage, may legitimately be taken into account in drawing a line which, moreover, appears to the Court to have been kept within the bounds of what is moderate and reasonable.

As to the Vestfjord, after the oral argument, its delimitation no longer presents the importance it had in the early stages of the proceedings. Since the Court has found that the waters of the Indreleia are internal waters, the waters of the Vestfjord, as indeed the waters of all other Norwegian fjords, can only be regarded as internal waters. In these circumstances, whatever difference may still exist between the views of the United Kingdom Government and those of the Norwegian Government on this point, is negligible. It is reduced to the question whether the base-line should be drawn between points 45 and 46 as fixed by the 1935 Decree, or whether the line should terminate at the Kalsholmen lighthouse on Tenholmerne. The Court considers that this question is purely local in character and of secondary importance, and that its settlement should be left to the coastal State.

For these reasons,

THE COURT,

rejecting all submissions to the contrary,

Finds

by ten votes to two,

that the method employed for the delimitation of the fisheries zone by the Royal Norwegian Decree of July 12th, 1935, is not contrary to international law; and

by eight votes to four,

that the base-lines fixed by the said Decree in application of this method are not contrary to international law.

Done in French and English, the French text being authoritative, at the Peace Palace, The Hague, this eighteenth day of December, one thousand nine hundred and fifty-one, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the United Kingdom of Great Britain and Northern Ireland and to the Government of the Kingdom of Norway, respectively.

Secretariat of the U.N., Historic Bays (excerpts), 1958*

* U.N. Doc. A/CONF.13/1, 1 UNCLOS I, Official Records 1-3 (1-2, 5, 9-10); 10-11 (50,58,61); 14-16 (74-75, 77-82, 87-90); 21-23 (94-95, 102, 106-107); 27-32 (131-133, 137-139, 152, 159-162, 167); 34-35 (181, 190); and 37-38 (199-200, 209) (1958).

Document A/CONF.13/1

HISTORIC BAYS

MEMORANDUM BY THE SECRETARIAT OF THE UNITED NATIONS

(Preparatory document No. 1)

[*Original text: French*]
[*30 September 1957*]

CONTENTS

Introduction

I. *Object of the present study*

1. This study is intended for the United Nations Conference on the Law of the Sea, to be held in pursuance of General Assembly resolution 1105 (XI) of 21 February 1957.[1]

2. By the terms of that resolution, the General Assembly has referred to the Conference, as the basis for its proceedings, the draft articles concerning the law of the sea adopted by the International Law Commission at its eighth session. The Commission's draft article 7 deals with bays and reads as follows:

"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 landlocked waters and constitute

[1] *Official Records of the General Assembly, Eleventh Session, Supplement No. 17* (A/3572), p. 54.

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."[1]

5. Part I describes the practice of States by reference to a few examples of bays which are considered to be historic or are claimed as such by the States concerned. Part I then proceeds to cite the various draft codifications which established the theory of "historic bays", and the opinions of learned authors and of Governments on this theory. Part II discusses the theory itself, inquiring into the legal status of the waters of bays regarded as historic bays, and setting forth the factors which have been relied on for the purpose of claiming bays as historic. The final section is intended to show that the theory does not apply to bays only but is more general in scope.

III. *Origin and justification of the theory of historic bays*

9. The origin of this theory is traceable to the efforts made in the nineteenth century to determine, in bays, the baseline of the territorial sea. In view of the intimate relationship between bays and their surrounding land formations and in the light of the provisions of municipal law and of conventions governing the subject, proposals were made the object of which was to advance the starting line of the territorial sea towards the opening of bays. The intention was that, in bays, the territorial sea should not be measured from the shore — the method proposed in the case of more or less straight coasts — but should, rather, be reckoned as from a line drawn further to seaward. On this point agreement was virtually unanimous, though the exact location of the line from which the territorial sea was to be reckoned continued to be the subject of controversy. According to various proposals put forward, the territorial sea was to be measured from a straight line drawn across the bay at a point at which its two coasts were a specified distance apart (six miles, ten miles, twelve miles, etc.); the waters lying to landward of that line would be part of the internal waters of the coastal State.

10. This attempt to restrict, in respect of bays, the maritime area claimable by the coastal State as part of its internal waters conflicted with existing situations. There were bays of considerable size the waters of which were wholly the property of the coastal States concerned — the territorial sea being accordingly reckoned, in these cases, from the opening of the bay in question towards the sea. Hence, for the purposes of codification, the choice lay between two possible courses, *viz.* allowing for these cases by means of an exception to the general rule to be formulated; and ignoring them by making the rule apply to all bays, regardless of their *de facto* status. The second course was felt to be arbitrary, and capable, if applied in practice, of causing international difficulties. Most of the draft codifications which dealt with bays endorsed the first solution. There remained, however, and there still remains, the question which bays are covered by the exception. The mere fact that a State claims the ownership of a bay which is not already territorial by virtue of the general rule does not *per se* ensure acceptance of the claim. The claim would have to be substantiated by reference to a specific criterion. And, according to the theory as originally conceived, this criterion was to be essentially historic. The modern view, however, has gone beyond this conception. According to one school of thought (which is more particularly discussed elsewhere in this paper), the proprietary title may be founded either on considerations connected with history or else on considerations of necessity, in which latter case the historical element might be lacking altogether.

50. In the Fisheries Case between the United Kingdom and Norway, decided by the International Court of Justice in its judgement of 18 December 1951, the theory of historic bays played an important part. The parties dealt with it both in their written and in their oral statements. And the judgement of the Court, although not treating the theory as a major issue, devotes many pages to it. Nor does the theory receive less prominence in the separate or dissenting opinions of certain judges. In this section, only the relevant portions of the judgement will be cited.

58. The Court defined "historic waters" in these terms:

"By 'historic waters' are usually meant waters which are treated as internal waters but which would not have that character were it not for the existence of an historic title."[66]

61. The court likewise rejected the contention that the maximum permissible length of straight baselines was ten nautical miles:

"... although the ten-mile rule has been adopted by certain States both in their national law and in their treaties and conventions, and although certain arbitral decisions have applied it as between these States, other States have adopted a different limit. Consequently, the ten-mile rule has not acquired the authority of a general rule of international law."[66]

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[1] *Ibid., Supplement No. 9* (A/3159) p. 15.

[66] *Fisheries Case (United Kingdom v. Norway) Judgement of 18 December 1951 : I.C.J. Reports* (1951), p. 130.

[66] *Ibid.*, p. 131.

A. *Draft codifications prepared by learned societies*

Institute of International Law

74. At its session held in Paris in March 1894, the Institute of International Law adopted a number of rules concerning the definition and the régime of the territorial sea. In its draft article 3, the Institute recognizes the theory of historic bays by using the terms "continuous usage of long standing" (*usage continu et séculaire*):

"*Article 3.* In the case of bays, the territorial sea follows the sinuosities of the coast, except that it is measured from a straight line drawn across the bay at the place nearest the opening toward the sea, where the distance between the two shores of the bay is twelve nautical miles, unless a continued usage of long standing has sanctioned a greater width." [80]

75. However, in the draft regulations concerning the territorial sea in time of peace, adopted by the Institute of International Law at its Stockholm session in August 1928, the theory of historic bays is expressed by the words "international usage":

"*Article 3.* The territorial sea is measured ...; in the case of bays, from a straight line drawn across the bay at the place nearest the opening toward the sea, where the distance between the two shores of the bay is ten nautical miles, unless international usage has sanctioned a greater width.

"In the case of bays the coasts of which belong to two or more States, the territorial sea follows the sinuosities of the coast." [81]

International Law Association

77. The draft rules relating to territorial waters, adopted by the International Law Association at its Brussels session in 1895, contain an article 3 which reproduces textually the corresponding clause of the 1894 draft of the Institute of International Law (except that the width of twelve miles is replaced by ten miles).[82]

78. The draft convention submitted in 1926 to the Association's thirty-fourth conference by the committee appointed by the Executive Council to consider, *inter alia*, maritime jurisdiction in time of peace, uses the expression "established usage":

"*Article 7.* With regard to bays and gulfs, territorial waters shall follow the sinuosities of the coast, unless an established usage has sanctioned a greater limit." [84]

79. The draft convention, as amended by the Conference, adopts the same expression, adding the terms "generally recognized by the nations". In addition, it introduces the idea of "occupation" into the saving clause:

"*Article 7.* With regard to bays and gulfs, territorial waters shall follow the sinuosities of the coast, unless an occupation or an established usage generally recognized by the nations has sanctioned a greater limit." [85]

[80] *Annuaire de l'Institut de Droit International*, vol. 13 (1894-95), p. 329.

[81] *Ibid.*, vol. 34, Stockholm session, August, 1928, p. 755.

[82] The International Law Association, *Report of the Seventeenth Conference*, 1895, p. 115.

[84] *Ibid.*, *Report of the Thirty-fourth Conference*, 1926, p. 43.

[85] *Ibid.*, p. 102.

American Institute of International Law

80. Project No. 10, prepared in 1925 by the Commission set up by the American Institute of International Law for the codification of American international law, embodies the theory of historic bays. Article 6 uses the expression "continued and well-established usage":

"*Article 6.* For bays extending into the territory of a single American Republic the territorial sea follows the sinuosities of the coast, except that it is measured from a straight line drawn across the bay at the point nearest the opening into the sea where the two coasts of the bay are separated by a distance of —— marine miles, unless a greater width shall have been sanctioned by continued and well-established usage." [86]

81. The project submitted in 1933 to the Seventh International Conference of American States by the American Institute of International Law expresses the theory of historic bays in the following terms:

"*Article 11.* There are excepted from the provisions of the two foregoing articles, in regard to limits and measure, those bays or estuaries called historic, *viz.* those over which the coastal State or States, or their constituents, have traditionally exercised and maintained their sovereign ownership, either by provisions of internal legislation and jurisdiction, or by deeds or writs of the authorities." [87]

Kokusaiho-Gakukwai

(Japanese International Law Society)

82. A draft codification adopted in 1926 by Kokusaiho-Gakukwai (The Japanese International Law Society) employs the expression "immemorial usage":

"*Article 2.* In the case of bays and gulfs, the coasts of which belong to the same State, the littoral waters extend seawards at right angles from a straight line drawn across the bay or gulf at the first point nearest the open sea where the width does not exceed ten marine miles, unless a greater width has been established by immemorial usage." [88]

[86] *American Journal of International Law*, 1926, Special Supplement, vol. 20, p. 318.

[87] "Project on the Territorial Sea", submitted to the Seventh International Conference of American States, 3 December 1933 (Document for the Use of Delegates, No. 4, pp. 38-41); quoted in *I.C.J. Fisheries Case (United Kingdom v. Norway), Judgement of 18 December 1951*, vol. III, Norwegian Reply, p. 455; Bustamante, *The Territorial Sea*, 1930, pp. 142-143.

[88] J. Mochot, *Régime des baies et des golfes en droit international*, Paris, 1938, p. 144.

2. *Conference on the Codification of International Law* (1930)

(*a*) *Preparatory Committee* [93]

87. Basis of Discussion No. 8 prepared by this Committee was worded as follows:

"The belt of territorial waters shall be measured from a straight line drawn across the entrance of a bay, whatever its breadth may be, if by usage the bay is subject to the exclusive authority of the coastal State: the onus of proving such usage is upon the coastal State." [94]

The above provision relates only to historic bays, Basis of Discussion No. 7 being concerned with ordinary bays.[95]

88. In its observation, the Preparatory Committee noted that:

"The government replies appear to indicate that agreement can easily be reached to extend the same method of calculation to bays of a greater breadth than ten miles where the coastal State is in a position to prove the existence of a usage to that effect (historic bays)." [96]

89. Bases of Discussion Nos. 7 and 8 concern bays the coasts of which belong to a single State. Basis of Discussion No. 9 concerns bays the coasts of which belong to two or more States:

"If two or more States touch the coast of a bay or estuary of which the opening does not exceed ten miles, the territorial waters of each coastal State are measured from the line of low-water mark along the coast." [97]

(*b*) *Report of the Second Committee*

90. In its report to the Conference, the Second Committee (Mr. François, Rapporteur), which had been appointed to study the Bases of Discussion drawn up by the Preparatory Committee, said:

"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 connexion, 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 appendices, can be open to that interpretation." [98]

[93] This Committee was appointed under a resolution adopted by the Council of the League of Nations on 28 September 1927, with the terms of reference contained in a resolution of 27 September 1927 of the Assembly. At its session held at Geneva from 28 January to 17 February 1929, the Preparatory Committee examined the replies of Governments to the request for information upon the three questions on the programme of the proposed Conference: territorial waters, etc. As a result of that examination, the Committee drew up bases of discussion for the use of the Conference.

[94] Ser. L.o.N.P. 1929, v. 2, p. 45.

[95] Basis of Discussion No. 7: "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." (*Ibid.*)

[96] *Ibid.*

[97] *Ibid.*

[98] Ser. L.o.N.P. 1930.V.14, p. 125.

PART II

The theory of historic bays: an analysis

I. LEGAL STATUS OF THE WATERS OF BAYS REGARDED AS HISTORIC BAYS

94. Are the waters of a bay which is regarded as a historic bay part of the "territorial sea", or are they assimilated to "internal waters"? This question is very important, for different rules govern the two parts of the sea, particularly as regards one point of vital interest in international law: the innocent passage of foreign vessels. As a general rule, States are not bound under international law, to allow such passage in their internal waters.

95. For the purpose of determining the legal status of historic bays, two distinct situations have to be considered: (*a*) historic bays bordering on the shores of a single State; and (*b*) those bordering on the shores of two or more States.

102. The distinction between the waters of historic bays and the territorial sea is always clearly drawn in draft codes. According to the draft codes, whether prepared by learned societies or under the auspices of the League of Nations — all of which use more or less the same formula regarding the delimitation of the territorial sea in bays — the line from which the territorial sea is to be measured in a bay is a straight line drawn across the mouth at the point nearest to the sea where the width of the bay does not exceed a given distance (ten miles, twelve miles, etc.).[122] The fact that the territorial sea does not begin, in a bay, until a fictitious line drawn in the sea at a certain distance from the coast clearly implies that the waters situated to landward of that line are not part of the territorial sea. The same applies, therefore, to the waters of historic bays, the status of which is recognized by these draft codes as an exception (or as a possible exception) to the general rule applicable to ordinary bays. The draft convention amended by Mr. Schücking in consequence of the discussion in the Committee of Experts (*supra*, para. 86) even states expressly, in article 4, that the waters of the bays defined in that article are to be assimilated to internal waters; and the bays defined in that article are those which are bordered by the territory of a single State and in which the territorial sea is measured from a straight line drawn across the bay at the part nearest the opening towards the sea where the distance does not exceed ten miles "unless a greater distance has been established by continuous and immemorial usage".

[122] The same procedure for delimiting the territorial sea in bays is prescribed in many treaties and national statutes; e.g. Treaty of 2 August 1939 between Great Britain and France, article 9 (de Martens, *Nouveau recueil général de traités*, vol. XVI, p. 254); Convention of 6 May 1882 between Germany, Belgium, Denmark, France, Great Britain and the Netherlands, article 2 (*Ibid.*, 2nd series, vol. XIX, p. 510); Treaty of 27 March 1893 between Portugal and Spain, article 2 (*British and Foreign State Papers*, vol. 85, p. 416); Treaty of 31 December 1932 between Denmark and Sweden, article 2 (*League of Nations Treaty Series*, vol. 139, p. 215).

National statutes: Brazil, Decree No. 5796 of 11 June 1940, article 17 (1) (*Collecção das leis*, 1940, vol. VI); Italy, Navigation Code of 30 March 1942, article 2 (*Gazzetta Ufficiale* No. 75, 1942).

A number of statutes classify as internal waters all bays bordering on the country's shores; some of these specify limits, others do not. See for example, the Yugoslav Act of 1 December 1948 (*Sluzbeni List*, vol. 4, No. 106, 8 December 1948, item 875, p. 1739).

106. Nevertheless, the provisions of the International Law Commission's draft governing this category of internal waters are so worded that, in certain circumstances, these waters may not enjoy exactly the same status as internal waters normally enjoy, for within these internal waters created by the drawing of straight baselines, the coastal State is bound to recognize the right of innocent passage in all cases where those waters "have normally been used for international traffic".

107. In effect, the Commission has propounded a principle which could be termed the principle of the historic right of innocent passage in a specified category of internal waters. It seems, however, that this principle can only be invoked in wholly new situations. The commentary to article 5 states:

"The question arose whether in waters which become internal waters when the straight baseline system is applied the right of passage should not be granted in the same way as in the territorial sea. Stated in such general terms, this argument was not approved by the majority of the Commission. The Commission was, however, prepared to recognize that if a State wished to make a fresh delimitation of its territorial sea according to the straight baseline principle, thus including in its internal waters parts of the high seas or of the territorial sea that had previously been waters through which international traffic passed, other nations could not be deprived of the right of passage in those waters. Paragraph 3 of the article is designed to safeguard that right."

B. *Historic bays the coasts of which belong to two or more States*

131. The information on this category of bays is not very plentiful. The draft codes prepared by learned societies and those drawn up under the auspices of the League of Nations[180] consider solely the case of a historic bay bordering on the shores of a single State. The same is true of the draft of the International Law Commission, which does not deal with bays bordering on the coasts of two or more States because the Commission had not "sufficient data at its disposal concerning the number of cases involved or the regulations at present applicable to them".

132. The status of the Gulf of Fonseca, the waters of which abut on the territories of Nicaragua, Honduras and El Salvador, was settled by the judgement delivered on 9 March 1917 by the Central American Court of Justice (*supra*, paras. 44-47). This judgement, although confirming that the waters of the Gulf are of a historic character, does not attribute to them the characteristics of internal waters; rather, it tends to class them as territorial sea. The judgement recognizes that the three riparian States are "co-owners" of the waters of the Gulf, except as to the littoral marine league, which is the "exclusive property" of each. This means that the waters of the Gulf are divided into two parts: the first, which begins at the shoreline and continues for a distance of one marine league, is the territorial sea of each of the coastal States; the second, containing all the remaining ("non-littoral") waters of the Gulf, is an area of territorial sea belonging to the three States in common. The Court held that "as to a portion of the non-littoral waters there was an overlapping or confusion of jurisdiction in matters pertaining to inspection for police and fiscal purposes and purposes of national security, and that as to another portion thereof, it is possible that no such overlapping and confusion takes place". The Court decided, therefore, "that as between El Salvador and Nicaragua co-ownership exists with respect to both portions, since they are both within the Gulf; with the express proviso, however, that the rights pertaining to Honduras as *coparcener* in those portions are not affected by that decision".

133. The judgement of the Central American Court of Justice on the status of the Gulf of Fonseca contains two essential points: (1) as historic waters, the waters of the Gulf belong to the coastal States; (2) those waters have the characteristics of the territorial sea and not of internal waters. With reference to the last point, Gidel remarks:[181]

"The judgement of The Central American Court of Justice ... attributes to the waters of the gulf the characteristics not of internal waters, which their status as a historic bay would normally have required, but of the territorial sea. This is a truly remarkable departure from the logical rules governing historic bays."

II. The constituent elements of the theory of historic bays and the conditions for the acquisition of historic title

137. The original purpose of the theory of historic bays was to exclude from the application of the general régime of bays which was then being elaborated certain bays whose status had already been settled by history. In other words, its object was to ensure that, despite the tendency to restrict the area within any large bay which could validly be deemed internal waters, the status of those bays which had already been accepted as wholly internal, on essentially historical grounds, would remain unchanged. Hence, under the theory as originally conceived, a State would be unable to lay claim to a particular bay except by relying mainly on historical evidence, by arguing from the fundamental principle: this bay belongs to me because it has always belonged to me, or because it has belonged to me for a certain time. Today, however, the theory is no longer conceived in such limited terms. In order to place certain bays outside the scope of the normally applicable rules, States no longer rely on factors of a purely historical character; they also — and sometimes even exclusively — rely on factors of a very different nature. The purpose of this inquiry is to discover the factors relied on for the purpose of determining which bays are to constitute exceptions to the rules generally accepted — or, at least, to be elaborated — with respect to ordinary bays.

138. Municipal and international case-law, draft codes and the works of the learned authorities reveal

[180] All the Governments which replied to the Bases of Discussion prepared by the Preparatory Committee of the Codification Conference, 1930, expressed the view that, in the case of bays bordering on the territory of two or more States, the breadth of the territorial sea should be measured from the low-water mark along the coast (Basis of Discussion No. 9 and Observations of the Committee: Ser. L.o.N.P. 1929.V.2, p. 45).

[181] *Op. cit.*, p. 627.

two fundamentally different conceptions of this particular point of the problem. These conceptions are most clearly apparent in doctrine and in the works of codification, as judicial decisons have always ruled on the territoriality of certain bays or certain sea areas strictly in the light of the special circumstances of each case.

A. *First conception: "usage" the sole root of historic title*

139. According to this conception, the right to a bay which does not come under the general rule applicable to ordinary bays can only be founded on "usage". The supporters of this view do not, however, agree on the conditions which such usage should fulfil. One school of thought holds that national usage *per se* is a good root of historic title. Another school considers, on the contrary, that national usage cannot be a good root of historic title unless the usage was recognized, in one form or another, by the other States.

152. In article 7 of the draft international convention submitted to the Buenos Aires Conference of the International Law Association in 1922 by Captain Stormy the following definition of the theory of historic waters is given:

"A State may include within the limits of its territorial sea the estuaries, gulfs, bays or parts of the adjacent sea in which it has established its jurisdiction by continuous and immemorial usage or which, when these precedents do not exist, are unavoidably necessary according to the conception of article 2; that is to say, for the requirements of self-defence or neutrality or for ensuring the various navigation and coastal maritime police services." [170]

C. *Various elements considered in judicial decisions dealing with the territoriality of certain bays or maritime areas*

1. *International cases*

Permanent Court of Arbitration (1910)

159. In an award cited earlier in this paper (*supra*, para. 49), the special arbitral tribunal which decided the North Atlantic Coast Fisheries Case between Great Britain and the United States (1910) recognized that "conventions and established usage might be considered as the basis for claiming as territorial those bays... called historic bays." But this statement was only made *obiter* and the tribunal did not go into the details of the theory which it upheld in principle.

160. It is pertinent, nevertheless, to quote from the tribunal's opinion the remarks relating to the notion of "bays" in general. The dispute concerned the interpretation of the Treaty concluded between Great Britain and the United States in 1818 and the meaning of the term "bay" was one of the contested points. The tribunal held that, for the purpose of determining the question of territoriality, the interpretation must take into account all the individual circumstances which were to be appreciated in the case of the bay in question: [182]

"... the relation of its width to the length of penetration inland; the possibility and the necessity of its being defended by the State in whose territory it is indented; the special value which it has for the industry of the inhabitants of its shores; the distance by which it is secluded from the highways of nations on the open sea; and other circumstances not possible to enumerate in general."

Central American Court of Justice (1917)

161. The judgement delivered by the Central American Court of Justice in 1917 regarding the Gulf of Fonseca (for an extract from this decision see *supra*, paras. 44-47) stated that that Gulf belonged to the category of historic bays because is combined all the characteristics that doctrine and the practice of States has prescribed as essential, namely: Secular or immemorial possession accompanied by *animo domini* both peaceful and continuous and by acquiescence on the part of other nations; the special geographical configuration that safeguards so many interests of vital importance to the economic, commercial, agricultural and industrial life of the riparian States; and the indispensable necessity that those States should possess the Gulf as fully as required by those primordial interests and the interest of national defence.

The International Court of Justice (1951)

162. The judgement delivered by the International Court of Justice on 18 December 1951 in the Fisheries Case between the United Kingdom and Norway contains some useful statements on this subject. In that case, the issue before the Court was not the territoriality of certain bays or maritime areas but the international validity of the Norwegian system of delimitation, which was disputed by the United Kingdom. The Court, however, in holding that the system was indeed consistent with the rules of international law, found

[170] International Law Association, *Report of the Thirty-first Conference*, Buenos Aires, 1922, vol. 2, pp. 98 and 99.

[182] Scott, *Hague Court Reports*, First Series, New York, 1916, p. 187.

support for its findings in the historic titles which Norway had claimed,[183] together with other circumstances, in order to justify its system.[184] Some passages from the judgement have already been cited (*supra*, paras. 58-67). They show the grounds on which the Court based its finding that the Norwegian system of delimitation was valid and the circumstances which it held justified Norway's contention that that system was binding on foreign States.

2. *The elements of proof*

167. Since the basic element underlying the theory of historic bays — at least as that theory was originally conceived — is "usage", one must inquire how such usage can be proved. Article 11 of the project submitted in 1933 to the International Conference of American States by the American Institute of International Law (*supra*, para. 81) regards as "historic" the bays over which the coastal States have traditionally exercised and maintained their sovereign ownership, either by provisions of internal legislation and jurisdiction, or by deeds or writs of the authorities. According to that definition, before a State can claim a historic title to a bay it must have exercised its sovereignty over that bay. The mere claim of sovereignty does not, therefore, suffice; to satisfy the terms of the definition, sovereignty has to be exercised effectively. On the other hand, the exercise of sovereignty can, according to the definition, be proved by reference to measures under municipal law.[188]

3. *Evidence of international recognition*

181. It has been shown that, according to some schools of thought, international recognition is a decisive factor in the acquisition of historic title. Now the question is what form the recognition should take. Must it be universal? Must it be express, or can it be inferred from absence of opposition? And, in a case where a State has expressly recognized the territoriality of a bay, to what extent is that recognition valid *vis-à-vis* States which have abstained from lodging objections?

E. *The time factor in the acquisition of an historic title*

190. Is there some specified period of time which must elapse before an historic title is acquired? Expressions such as "of long standing", "immemorial", "confirmed by time" or "well-established", which occur both in judicial decisions and in the works of authors, all suggest a fairly long period but do not give a clear indication of its exact duration.

III. Scope of the theory of historic bays

199. The application of the theory is not limited to bays. It tends to be applied also to straits, to the waters within archipelagos and, generally, to the various areas capable of being comprised in the maritime domain of the State.

200. Article 2 of the draft covention adopted in 1936 by the International Law Association refers to all such maritime areas in general terms, as follows:[214]

"... each maritime State shall exercise territorial jurisdiction within the limits hereinafter provided and not further, save to the extent that jurisdiction is conferred by ... or established usage generally recognized by Nations."

209. In 1930, Antonio Sanchez de Bustamante y Sirven prepared a study of the territorial sea[221] which was transmitted, through the American Institute of International Law, to the First Codification Conference

[183] Judge Hackworth declared that he concurred in the operative part of the judgement but desired to emphasize that he did so for the reason that he considered that the Norwegian Government had proved the existence of an historic title to the disputed areas of water (*Fisheries Case (United Kingdom v. Norway), Judgement of 18 December 1951; I.C.J. Reports*, 1951, p. 144).

[184] Sir Gerald Fitzmaurice makes the following comment: "The point of vital interest regarding historic rights in the Fisheries Case was that the Court recognized yet another basis of historic title — a right to certain waters, deriving not from a historic claim to a given area of sea, as such, but from a historic system of delimiting territorial waters in general which, even if it were otherwise contrary to international law, the State concerned could be said to have acquired a right to employ by long-continued usage and action in that sense, acquiesced in, or anyhow not objected to, by other States." (The Law and Procedure of the International Court of Justice, 1951-54: Point of Substantive Law, *The British Year Book of International Law*, 1954, p. 382.)

In another article, Sir Gerald states: "It should ... be noticed that since the Court had already found that the general rules of international law, as laid down by the Court, did in themselves justify the Norwegian delimitation, it was strictly unnecessary for it to go into the issue of historic rights. Nevertheless, the Court did so and found in favour of Norway on that question also. There was, however, an important difference between the doctrine of historic rights as put forward by Norway and as found by the Court." (The Law and Procedure of the International Court of Justice, 1951-54: General Principles and Sources of Law, *Ibid.*, 1953, p. 27.)

[188] Bustamante, the author of the project in question, states: "... when attempt is made to determine what is to be understood by the word 'historic', some Governments maintain that to the traditional possession of the bay, there must be added the consent of other States.

"It is very dangerous, because this last condition lends itself to notable abuses. No one specifies from how many and from which States this conformity must proceed, or what is the legal value of one or various divergent opinions. In respect to a certain bay, the continuous possession of which is claimed by a coastal State by right of sovereignty, no controversies or difficulties have ever arisen, either on account of its distance from the great maritime and commercial currents of the Globe, because the opportunity of expounding and solving doubtful questions has not presented itself. It is inadmissible that such circumstances should suffice to deprive the bay of its historic character" (*op. cit.*, pp. 99 and 100).

[214] *Report of the Thirty-fourth Conference*, 1926, p. 43. See also article 12 of the draft contained in *Harvard Research* (*supra*, para. 83), articles 11 and 16 of the draft submitted in 1933 to the Tenth International Conference of American States (*supra*, para. 81) and the Report of the Second Committee of the Codification Conference, 1930 (*supra*, para. 90).

of The Hague. In this study, the eleventh chapter of which contains a "Project of Convention" on the juridical regime of the territorial sea, the author states: [222]

"It appears necessary that the Convention should define these historic bays, in order that it be their fundamental element, the exercise or uninterrupted sanction of their character, that determines the recognition of this quality. The permanent right of the coastal State may be proved, both by the provisions of its internal legislation, if it has such, and by acts of jurisdiction and of government as well as by declarations previous to the signing of the proposed Convention by the competent authorities.

"Some means must, however, exist so as to avoid future abuses, as well as discussions and conflicts. With this aim, the Project of Convention establishes that every country having historic bays, within the definition that it contains, shall specifically state this on depositing its ratification. And as claims from third parties may arise, the opportunity to try them and the jurisdiction to decide them must not be passed over in silence. These claims we shall in due time discuss and formulate in view of the maximum extent of territorial waters." [223]

Article 11 of the "Project of Convention" gives a definition of historic bays (*supra*, para. 81). The other relevant articles are 18 to 25, which are worded as follows: [224]

"Art. 18. Territorial sea has an exterior maritime zone three miles wide, of sixty to the degree of longitude on the Equator, and starting from the interior limits indicated in this Convention.

"Art. 19. The contracting States which maintain, for all purposes or for some, a greater extent which has been fixed previous to the signing of the present Convention, shall declare this extent when depositing their respective ratification or when adhering to same.

"Art. 20. Such declaration shall be communicated at once by the Secretariat of the League of Nations to all other contracting or adhering States, which may oppose it within a period of six months from the notification, if not in accord with the conditions established in the foregoing article.

"Art. 21. Each State ratifying the present Convention or adhering thereto after the said declaration has been made, shall also be notified in the same manner, and may oppose it within the six months that follow its notification or adhesion, or take part in the current legal procedure, save in the event of an already existing judicial or arbitrary decision.

"Art. 22. The opposition shall be communicated to the Secretariat of the League of Nations, which shall notify thereof the remaining contracting parties or adherents.

"Art. 23. The opposing State shall be obliged, within another six months following reception of advice of opposition by the Secretariat of the League of Nations, and if it has not solved the difficulty through direct diplomatic negotiations between those interested, to submit it to the decision of third parties, in the manner established in the Conventions which it has in force with the opposed State, and, in the absence of this, to the Permanent Court of International Justice, if both of them were signatories of the Statute. In the event that neither of these cases should be applicable to them, the difference shall be submitted to arbitration.

"Art. 24. The procedure adopted according to the foregoing article, shall be immediately notified by the opposing State, and authentic copies of documents recording the results shall be furnished to the Secretariat of the League of Nations, and the latter shall also immediately transmit these copies and notify the other contracting States or adhering to the Convention, that may take part in the same procedure, although without intervening in the appointment of the arbitrary Court or in the organization and constitution of any other means of conciliation or decision that may have been accepted.

"Art. 25. The rules established in the foregoing articles 19 to 24 shall be applicable also to the bays, estuaries and straits comprised in articles 11 and 16 of the present Convention."

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[222] *Ibid.*, p. 100.

[223] *Ibid.*, pp. 109-111.

[224] *Ibid.*, pp. 143-144.

North Sea Continental Shelf (W. Ger./Den.; W. Ger./Neth.) (excerpts), 1969*

* 1969 I.C.J. 4; 6 (Art. I); 6-7 (Art. I); 15; 17-18 (6-8); 22-24 (19-20, 22-25); 30-32 (42-43, 46); 36-39 (57-59, 62-64); 41-43 (69-74); 45-47 (81, 83-85; 49 (89); and 51-54 (98, 101);(Judgement of Feb. 20). See also Evans, 63 Am. J. Int'l L. 591 (1969).

INTERNATIONAL COURT OF JUSTICE

YEAR 1969

1969
20 February
General List:
Nos. 51 & 52

20 February 1969

NORTH SEA CONTINENTAL SHELF CASES

(FEDERAL REPUBLIC OF GERMANY/DENMARK; FEDERAL REPUBLIC OF GERMANY/NETHERLANDS)

Continental shelf areas in the North Sea—Delimitation as between adjacent States—Advantages and disadvantages of the equidistance method—Theory of just and equitable apportionment—Incompatibility of this theory with the principle of the natural appurtenance of the shelf to the coastal State—Task of the Court relates to delimitation not apportionment.

The equidistance principle as embodied in Article 6 of the 1958 Geneva Continental Shelf Convention—Non-opposability of that provision to the Federal Republic of Germany, either contractually or on the basis of conduct or estoppel.

Equidistance and the principle of natural appurtenance—Notion of closest proximity—Critique of that notion as not being entailed by the principle of appurtenance—Fundamental character of the principle of the continental shelf as being the natural prolongation of the land territory.

Legal history of delimitation—Truman Proclamation—International Law Commission—1958 Geneva Conference—Acceptance of equidistance as a purely conventional rule not reflecting or crystallizing a rule of customary international law—Effect in this respect of reservations article of Geneva Convention—Subsequent State practice insufficient to convert the conventional rule into a rule of customary international law—The opinio juris sive necessitatis, *how manifested.*

Statement of what are the applicable principles and rules of law—Delimitation by agreement, in accordance with equitable principles, taking account of all relevant circumstances, and so as to give effect to the principle of natural prolongation—Freedom of the Parties as to choice of method—Various factors relevant to the negotiation.

Articles 1 to 3 of the Special Agreement between the Governments of Denmark and the Federal Republic of Germany are as follows:

"*Article 1*

(1) The International Court of Justice is requested to decide the following question:

What principles and rules of international law are applicable to the delimitation as between the Parties of the areas of the continental shelf in the North Sea which appertain to each of them beyond the partial boundary determined by the above-mentioned Convention of 9 June 1965?

(2) The Governments of the Kingdom of Denmark and of the Federal Republic of Germany shall delimit the continental shelf in the North Sea as between their countries by agreement in pursuance of the decision requested from the International Court of Justice.

Articles 1 to 3 of the Special Agreement between the Governments of the Federal Republic of Germany and the Netherlands are as follows:

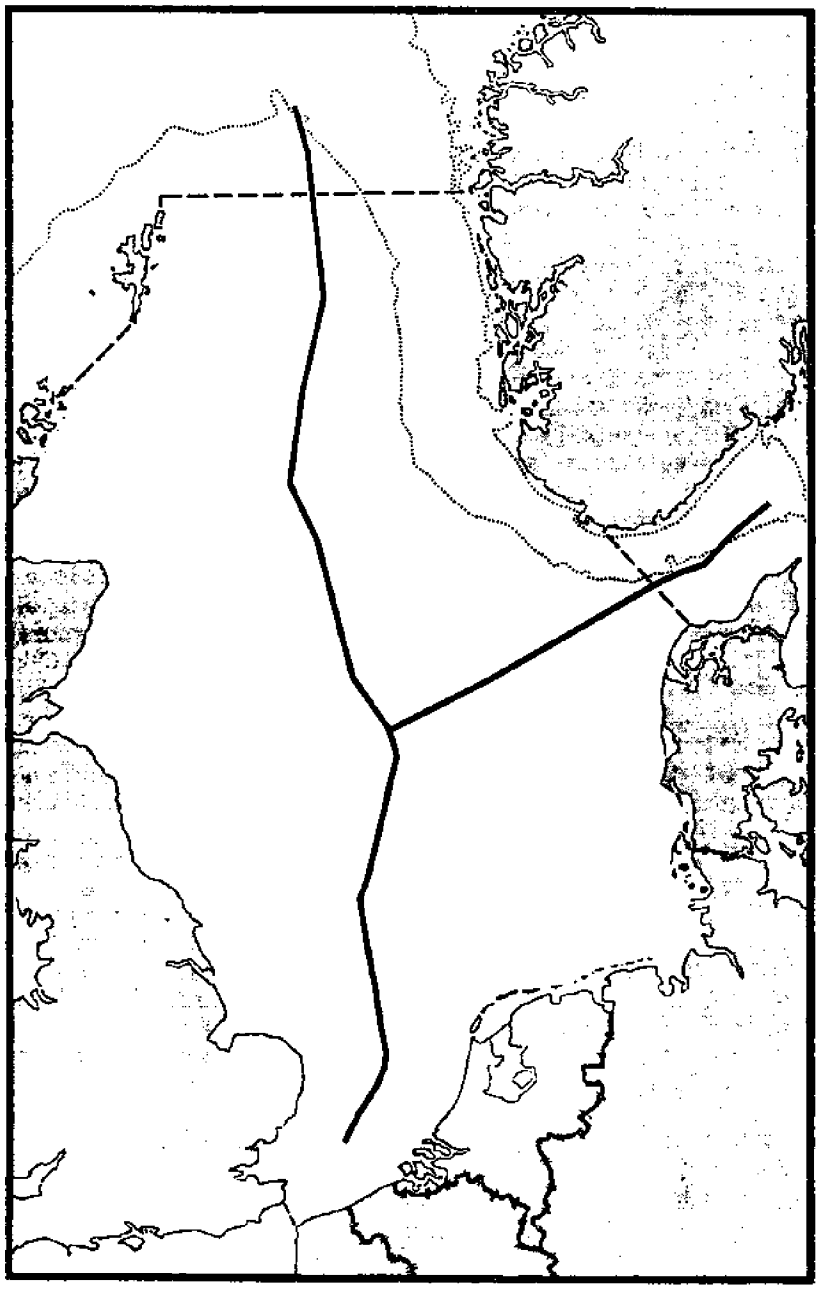
"*Article 1*

(1) The International Court of Justice is requested to decide the following question:

What principles and rules of international law are applicable to the delimitation as between the Parties of the areas of the continental shelf in the North Sea which appertain to each of them beyond the partial boundary determined by the above-mentioned Convention of 1 December 1964?

(2) The Governments of the Federal Republic of Germany and of the Kingdom of the Netherlands shall delimit the continental shelf of the North Sea as between their countries by agreement in pursuance of the decision requested from the International Court of Justice.

* * * * *



Map 1

(See paragraphs 3 and 4)

200 metres line .....

Limits fixed by the 1882 Convention — — — — — —

Median lines ———

Carte 1

(Voir paragraphes 3 et 4)

Isobathe des 200 mètres

Limites définies par la convention de 1882

Lignes médianes

6. Under the agreements of December 1964 and June 1965, already mentioned, the partial boundaries represented by the map lines A-B and C-D had, according to the information furnished to the Court by the Parties, been drawn mainly by application of the principle of equidistance, using that term as denoting the abstract concept of equidistance. A line so drawn, known as an "equidistance line", may be described as one which leaves to each of the parties concerned all those portions of the continental shelf that are nearer to a point on its own coast than they are to any point on the coast of the other party. An equidistance line may consist either of a "median" line between "opposite" States, or of a "lateral" line between "adjacent" States. In certain geographical configurations of which the Parties furnished examples, a given equidistance line may partake in varying degree of the nature both of a median and of a lateral line. There exists nevertheless a distinction to be drawn between the two, which will be mentioned in its place.

7. The further negotiations between the Parties for the prolongation of the partial boundaries broke down mainly because Denmark and the Netherlands respectively wished this prolongation also to be effected on the basis of the equidistance principle,—and this would have resulted in the dotted lines B-E and D-E, shown on Map 3; whereas the Federal Republic considered that such an outcome would be inequitable because it would unduly curtail what the Republic believed should be its proper share of continental shelf area, on the basis of proportionality to the length of its North Sea coastline. It will be observed that neither of the lines in question, taken by itself, would produce this effect, but only both of them together—an element regarded by Denmark and the Netherlands as irrelevant to what they viewed as being two separate and self-contained delimitations, each of which should be carried out without reference to the other.

8. The reason for the result that would be produced by the two lines B-E and D-E, taken conjointly, is that in the case of a concave or recessing coast such as that of the Federal Republic on the North Sea, the effect of the use of the equidistance method is to pull the line of the boundary inwards, in the direction of the concavity. Consequently, where two such lines are drawn at different points on a concave coast, they will, if the curvature is pronounced, inevitably meet at a relatively short distance from the coast, thus causing the continental shelf area they enclose, to take the form approximately of a triangle with its apex to seaward and, as it was put on behalf of the Federal Republic, "cutting off" the coastal State from the further areas of the continental shelf outside of and beyond this triangle. The effect of concavity could of course equally be produced for a country with a straight coastline if the coasts of adjacent countries protruded immediately on either side of it. In contrast to this, the effect of coastal projections, or of convex or outwardly curving coasts such as are, to a moderate extent, those of Denmark and the Netherlands, is to cause boundary lines drawn on an equidistance basis to leave the

coast on divergent courses, thus having a widening tendency on the area of continental shelf off that coast. These two distinct effects, which are shown in sketches I-III to be found on page 16, are directly attributable to the use of the equidistance method of delimiting continental shelf boundaries off recessing or projecting coasts. It goes without saying that on these types of coasts the equidistance method produces exactly similar effects in the delimitation of the lateral boundaries of the territorial sea of the States concerned. However, owing to the very close proximity of such waters to the coasts concerned, these effects are much less marked and may be very slight,—and there are other aspects involved, which will be considered in their place. It will suffice to mention here that, for instance, a deviation from a line drawn perpendicular to the general direction of the coast, of only 5 kilometres, at a distance of about 5 kilometres from that coast, will grow into one of over 30 at a distance of over 100 kilometres.

19. More important is the fact that the doctrine of the just and equitable share appears to be wholly at variance with what the Court entertains no doubt is the most fundamental of all the rules of law relating to the continental shelf, enshrined in Article 2 of the 1958 Geneva Convention, though quite independent of it,—namely that the rights of the coastal State in respect of the area of continental shelf that constitutes a natural prolongation of its land territory into and under the sea exist *ipso facto* and *ab initio*, by virtue of its sovereignty over the land, and as an extension of it in an exercise of sovereign rights for the purpose of exploring the seabed and exploiting its natural resources. In short, there is here an inherent right. In order to exercise it, no special legal process has to be gone through, nor have any special legal acts to be performed. Its existence can be declared (and many States have done this) but does not need to be constituted. Furthermore, the right does not depend on its being exercised. To echo the language of the Geneva Convention, it is "exclusive" in the sense that if the coastal State does not choose to explore or exploit the areas of shelf appertaining to it, that is its own affair, but no one else may do so without its express consent.

20. It follows that even in such a situation as that of the North Sea, the notion of apportioning an as yet undelimited area, considered as a whole (which underlies the doctrine of the just and equitable share), is quite foreign to, and inconsistent with, the basic concept of continental shelf entitlement, according to which the process of delimitation is essentially one of drawing a boundary line between areas which already appertain to one or other of the States affected. The delimitation itself must indeed be equitably effected, but it cannot have as its object the awarding of an equitable share, or indeed of a share, as such, at all,—for the fundamental concept involved does not admit of there being anything undivided to share out. Evidently any dispute about boundaries must

involve that there is a disputed marginal or fringe area, to which both parties are laying claim, so that any delimitation of it which does not leave it wholly to one of the parties will in practice divide it between them in certain shares, or operate as if such a division had been made. But this does not mean that there has been an apportionment of something that previously consisted of an integral, still less an undivided whole.

22. Particular attention is directed to the use, in the foregoing formulations, of the terms "mandatory" and "obligation". It has never been doubted that the equidistance method of delimitation is a very convenient one, the use of which is indicated in a considerable number of cases. It constitutes a method capable of being employed in almost all circumstances, however singular the results might sometimes be, and has the virtue that if necessary,—if for instance, the Parties are unable to enter into negotiations,—any cartographer can *de facto* trace such a boundary on the appropriate maps and charts, and those traced by competent cartographers will for all practical purposes agree.

23. In short, it would probably be true to say that no other method of delimitation has the same combination of practical convenience and certainty of application. Yet these factors do not suffice of themselves to convert what is a method into a rule of law, making the acceptance of the results of using that method obligatory in all cases in which the parties do not agree otherwise, or in which "special circumstances" cannot be shown to exist. Juridically, if there is such a rule, it must draw its legal force from other factors than the existence of these advantages, important though they may be. It should also be noticed that the counterpart of this conclusion is no less valid, and that the practical advantages of the equidistance method would continue to exist whether its employment were obligatory or not.

24. It would however be ignoring realities if it were not noted at the same time that the use of this method, partly for the reasons given in paragraph 8 above and partly for reasons that are best appreciated by reference to the many maps and diagrams furnished by both sides in the course of the written and oral proceedings, can under certain circumstances produce results that appear on the face of them to be extraordinary, unnatural or unreasonable. It is basically this fact which underlies the present proceedings. The plea that, however this may be, the results can never be inequitable, because the equidistance principle is by definition an equitable principle of delimitation, involves a postulate that clearly begs the whole question at issue.

* * *

25. The Court now turns to the legal position regarding the equidistance method. The first question to be considered is whether the 1958

Geneva Convention on the Continental Shelf is binding for all the Parties in this case—that is to say whether, as contended by Denmark and the Netherlands, the use of this method is rendered obligatory for the present delimitations by virtue of the delimitations provision (Article 6) of that instrument, according to the conditions laid down in it. Clearly, if this is so, then the provisions of the Convention will prevail in the relations between the Parties, and would take precedence of any rules having a more general character, or derived from another source. On that basis the Court's reply to the question put to it in the Special Agreements would necessarily be to the effect that as between the Parties the relevant provisions of the Convention represented the applicable rules of law—that is to say constituted the law for the Parties—and its sole remaining task would be to interpret those provisions, in so far as their meaning was disputed or appeared to be uncertain, and to apply them to the particular circumstances involved.

42. There seems in consequence to be no necessary, and certainly no complete, identity between the notions of adjacency and proximity; and therefore the question of which parts of the continental shelf "adjacent to" a coastline bordering more than one State fall within the appurtenance of which of them, remains to this extent an open one, not to be determined on a basis exclusively of proximity. Even if proximity may afford one of the tests to be applied and an important one in the right conditions, it may not necessarily be the only, nor in all circumstances, the most appropriate one. Hence it would seem that the notion of adjacency, so constantly employed in continental shelf doctrine from the start, only implies proximity in a general sense, and does not imply any fundamental or inherent rule the ultimate effect of which would be to prohibit any State (otherwise than by agreement) from exercising continental shelf rights in respect of areas closer to the coast of another State.

43. More fundamental than the notion of proximity appears to be the principle—constantly relied upon by all the Parties—of the natural prolongation or continuation of the land territory or domain, or land sovereignty of the coastal State, into and under the high seas, via the bed of its territorial sea which is under the full sovereignty of that State. There are various ways of formulating this principle, but the underlying idea, namely of an extension of something already possessed, is the same, and it is this idea of extension which is, in the Court's opinion, determinant. Submarine areas do not really appertain to the coastal State because—or not only because—they are near it. They are near it of course; but this would not suffice to confer title, any more than, according to a well-established principle of law recognized by both sides in the present case, mere proximity confers *per se* title to land territory. What confers the *ipso jure* title which international law attributes to the coastal State in respect of its continental shelf, is the fact that the sub-

marine areas concerned may be deemed to be actually part of the territory over which the coastal State already has dominion,—in the sense that, although covered with water, they are a prolongation or continuation of that territory, an extension of it under the sea. From this it would follow that whenever a given submarine area does not constitute a natural—or the most natural—extension of the land territory of a coastal State, even though that area may be closer to it than it is to the territory of any other State, it cannot be regarded as appertaining to that State;—or at least it cannot be so regarded in the face of a competing claim by a State of whose land territory the submarine area concerned is to be regarded as a natural extension, even if it is less close to it.

46. The conclusion drawn by the Court from the foregoing analysis is that the notion of equidistance as being logically necessary, in the sense of being an inescapable *a priori* accompaniment of basic continental shelf doctrine, is incorrect. It is said not to be possible to maintain that there is a rule of law ascribing certain areas to a State as a matter of inherent and original right (see paragraphs 19 and 20), without also admitting the existence of some rule by which those areas can be obligatorily delimited. The Court cannot accept the logic of this view. The problem arises only where there is a dispute and only in respect of the marginal areas involved. The appurtenance of a given area, considered as an entity, in no way governs the precise delimitation of its boundaries, any more than uncertainty as to boundaries can affect territorial rights. There is for instance no rule that the land frontiers of a State must be fully delimited and defined, and often in various places and for long periods they are not, as is shown by the case of the entry of Albania into the League of Nations (*Monastery of Saint Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9*, at p. 10).

57. Before going further it will be convenient to deal briefly with two subsidiary matters. Most of the difficulties felt in the International Law Commission related, as here, to the case of the lateral boundary between adjacent States. Less difficulty was felt over that of the median line boundary between opposite States, although it too is an equidistance line. For this there seems to the Court to be good reason. The continental shelf area off, and dividing, opposite States, can be claimed by each of them to be a natural prolongation of its territory. These prolongations meet and overlap, and can therefore only be delimited by means of a median line; and, ignoring the presence of islets, rocks and minor coastal projections, the disproportionally distorting effect of which can be eliminated by other means, such a line must effect an equal division of the particular area involved. If there is a third State on one of the coasts concerned, the area of mutual natural prolongation with that of the same or another opposite State will be a separate and distinct one, to be treated in the same way. This type of case is therefore different from that of laterally adjacent States on the same coast with no immediately

opposite coast in front of it, and does not give rise to the same kind of problem—a conclusion which also finds some confirmation in the difference of language to be observed in the two paragraphs of Article 6 of the Geneva Convention (reproduced in paragraph 26 above) as respects recourse in the one case to median lines and in the other to lateral equidistance lines, in the event of absence of agreement.

58. If on the other hand, contrary to the view expressed in the preceding paragraph, it were correct to say that there is no essential difference in the process of delimiting the continental shelf areas between opposite States and that of delimitations between adjacent States, then the results ought in principle to be the same or at least comparable. But in fact, whereas a median line divides equally between the two opposite countries areas that can be regarded as being the natural prolongation of the territory of each of them, a lateral equidistance line often leaves to one of the States concerned areas that are a natural prolongation of the territory of the other.

59. Equally distinct in the opinion of the Court is the case of the lateral boundary between adjacent territorial waters to be drawn on an equidistance basis. As was convincingly demonstrated in the maps and diagrams furnished by the Parties, and as has been noted in paragraph 8, the distorting effects of lateral equidistance lines under certain conditions of coastal configuration are nevertheless comparatively small within the limits of territorial waters, but produce their maximum effect in the localities where the main continental shelf areas lie further out. There is also a direct correlation between the notion of closest proximity to the coast and the sovereign jurisdiction which the coastal State is entitled to exercise and must exercise, not only over the seabed underneath the territorial waters but over the waters themselves, which does not exist in respect of continental shelf areas where there is no jurisdiction over the superjacent waters, and over the seabed only for purposes of exploration and exploitation.

62. Whatever validity this contention may have in respect of at least certain parts of the Convention, the Court cannot accept it as regards the delimitation provision (Article 6), the relevant parts of which were adopted almost unchanged from the draft of the International Law Commission that formed the basis of discussion at the Conference. The status of the rule in the Convention therefore depends mainly on the processes that led the Commission to propose it. These processes have already been reviewed in connection with the Danish-Netherlands contention of an *a priori* necessity for equidistance, and the Court considers this review sufficient for present purposes also, in order to show that the principle of equidistance, as it now figures in Article 6 of the Convention, was proposed by the Commission with considerable hesitation, somewhat on an experimental basis, at most *de lege ferenda*, and

not at all *de lege lata* or as an emerging rule of customary international law. This is clearly not the sort of foundation on which Article 6 of the Convention could be said to have reflected or crystallized such a rule.

*

63. The foregoing conclusion receives significant confirmation from the fact that Article 6 is one of those in respect of which, under the reservations article of the Convention (Article 12) reservations may be made by any State on signing, ratifying or acceding,—for, speaking generally, it is a characteristic of purely conventional rules and obligations that, in regard to them, some faculty of making unilateral reservations may, within certain limits, be admitted;—whereas this cannot be so in the case of general or customary law rules and obligations which, by their very nature, must have equal force for all members of the international community, and cannot therefore be the subject of any right of unilateral exclusion exercisable at will by any one of them in its own favour. Consequently, it is to be expected that when, for whatever reason, rules or obligations of this order are embodied, or are intended to be reflected in certain provisions of a convention, such provisions will figure amongst those in respect of which a right of unilateral reservation is not conferred, or is excluded. This expectation is, in principle, fulfilled by Article 12 of the Geneva Continental Shelf Convention, which permits reservations to be made to all the articles of the Convention "other than to Articles 1 to 3 inclusive"—these three Articles being the ones which, it is clear, were then regarded as reflecting, or as crystallizing, received or at least emergent rules of customary international law relative to the continental shelf, amongst them the question of the seaward extent of the shelf; the juridical character of the coastal State's entitlement; the nature of the rights exercisable; the kind of natural resources to which these relate; and the preservation intact of the legal status as high seas of the waters over the shelf, and the legal status of the superjacent air-space.

64. The normal inference would therefore be that any articles that do not figure among those excluded from the faculty of reservation under Article 12, were not regarded as declaratory of previously existing or emergent rules of law; and this is the inference the Court in fact draws in respect of Article 6 (delimitation), having regard also to the attitude of the International Law Commission to this provision, as already described in general terms. Naturally this would not of itself prevent this provision from eventually passing into the general *corpus* of customary international law by one of the processes considered in paragraphs 70-81 below. But that is not here the issue. What is now under consideration is whether

it originally figured in the Convention as such a rule.

69. In the light of these various considerations, the Court reaches the conclusion that the Geneva Convention did not embody or crystallize any pre-existing or emergent rule of customary law, according to which the delimitation of continental shelf areas between adjacent States must, unless the Parties otherwise agree, be carried out on an equidistance-special circumstances basis. A rule was of course embodied in Article 6 of the Convention, but as a purely conventional rule. Whether it has since acquired a broader basis remains to be seen: *qua* conventional rule however, as has already been concluded, it is not opposable to the Federal Republic.

* * *

70. The Court must now proceed to the last stage in the argument put forward on behalf of Denmark and the Netherlands. This is to the effect that even if there was at the date of the Geneva Convention no rule of customary international law in favour of the equidistance principle, and no such rule was crystallized in Article 6 of the Convention, nevertheless such a rule has come into being since the Convention, partly because of its own impact, partly on the basis of subsequent State practice,—and that this rule, being now a rule of customary international law binding on all States, including therefore the Federal Republic, should be declared applicable to the delimitation of the boundaries between the Parties' respective continental shelf areas in the North Sea.

71. In so far as this contention is based on the view that Article 6 of the Convention has had the influence, and has produced the effect, described, it clearly involves treating that Article as a norm-creating provision which has constituted the foundation of, or has generated a rule which, while only conventional or contractual in its origin, has since passed into the general *corpus* of international law, and is now accepted as such by the *opinio juris*, so as to have become binding even for countries which have never, and do not, become parties to the Convention. There is no doubt that this process is a perfectly possible one and does from time to time occur: it constitutes indeed one of the recognized methods by which new rules of customary international law may be formed. At the same time this result is not lightly to be regarded as having been attained.

72. It would in the first place be necessary that the provision concerned should, at all events potentially, be of a fundamentally norm-creating character such as could be regarded as forming the basis of a general rule of law. Considered *in abstracto* the equidistance principle might be said to fulfil this requirement. Yet in the particular form in which it is embodied in Article 6 of the Geneva Convention, and having regard to the relationship of that Article to other provisions of the Convention, this must be open to some doubt. In the first place, Article 6

is so framed as to put second the obligation to make use of the equidistance method, causing it to come after a primary obligation to effect delimitation by agreement. Such a primary obligation constitutes an unusual preface to what is claimed to be a potential general rule of law. Without attempting to enter into, still less pronounce upon any question of *jus cogens*, it is well understood that, in practice, rules of international law can, by agreement, be derogated from in particular cases, or as between particular parties,—but this is not normally the subject of any express provision, as it is in Article 6 of the Geneva Convention. Secondly the part played by the notion of special circumstances relative to the principle of equidistance as embodied in Article 6, and the very considerable, still unresolved controversies as to the exact meaning and scope of this notion, must raise further doubts as to the potentially norm-creating character of the rule. Finally, the faculty of making reservations to Article 6, while it might not of itself prevent the equidistance principle being eventually received as general law, does add considerably to the difficulty of regarding this result as having been brought about (or being potentially possible) on the basis of the Convention: for so long as this faculty continues to exist, and is not the subject of any revision brought about in consequence of a request made under Article 13 of the Convention—of which there is at present no official indication—it is the Convention itself which would, for the reasons already indicated, seem to deny to the provisions of Article 6 the same norm-creating character as, for instance, Articles 1 and 2 possess.

73. With respect to the other elements usually regarded as necessary before a conventional rule can be considered to have become a general rule of international law, it might be that, even without the passage of any considerable period of time, a very widespread and representative participation in the convention might suffice of itself, provided it included that of States whose interests were specially affected. In the present case however, the Court notes that, even if allowance is made for the existence of a number of States to whom participation in the Geneva Convention is not open, or which, by reason for instance of being land-locked States, would have no interest in becoming parties to it, the number of ratifications and accessions so far secured is, though respectable, hardly sufficient. That non-ratification may sometimes be due to factors other than active disapproval of the convention concerned can hardly constitute a basis on which positive acceptance of its principles can be implied: the reasons are speculative, but the facts remain.

74. As regards the time element, the Court notes that it is over ten years since the Convention was signed, but that it is even now less than five since it came into force in June 1964, and that when the present proceedings were brought it was less than three years, while less than one had elapsed at the time when the respective negotiations between the Federal Republic and the other two Parties for a complete delimitation broke down on the question of the application of the equidistance

principle. Although the passage of only a short period of time is not necessarily, or of itself, a bar to the formation of a new rule of customary international law on the basis of what was originally a purely conventional rule, an indispensable requirement would be that within the period in question, short though it might be, State practice, including that of States whose interests are specially affected, should have been both extensive and virtually uniform in the sense of the provision invoked;— and should moreover have occurred in such a way as to show a general recognition that a rule of law or legal obligation is involved.

81. The Court accordingly concludes that if the Geneva Convention was not in its origins or inception declaratory of a mandatory rule of customary international law enjoining the use of the equidistance principle for the delimitation of continental shelf areas between adjacent States, neither has its subsequent effect been constitutive of such a rule; and that State practice up-to-date has equally been insufficient for the purpose.

83. The legal situation therefore is that the Parties are under no obligation to apply either the 1958 Convention, which is not opposable to the Federal Republic, or the equidistance method as a mandatory rule of customary law, which it is not. But as between States faced with an issue concerning the lateral delimitation of adjacent continental shelves, there are still rules and principles of law to be applied; and in the present case it is not the fact either that rules are lacking, or that the situation is one for the unfettered appreciation of the Parties. Equally, it is not the case that if the equidistance principle is not a rule of law, there has to be as an alternative some other single equivalent rule.

84. As already indicated, the Court is not called upon itself to delimit the areas of continental shelf appertaining respectively to each Party, and in consequence is not bound to prescribe the methods to be employed for the purposes of such a delimitation. The Court has to indicate to the Parties the principles and rules of law in the light of which the methods for eventually effecting the delimitation will have to be chosen. The Court will discharge this task in such a way as to provide the Parties with the requisite directions, without substituting itself for them by means of a detailed indication of the methods to be followed and the factors to be taken into account for the purposes of a delimitation the carrying out of which the Parties have expressly reserved to themselves.

85. It emerges from the history of the development of the legal régime of the continental shelf, which has been reviewed earlier, that the essential reason why the equidistance method is not to be regarded as a rule of law is that, if it were to be compulsorily applied in all situations, this would not be consonant with certain basic legal notions which, as has been observed in paragraphs 48 and 55, have from the beginning reflected the *opinio juris* in the matter of delimitation; those principles being that

delimitation must be the object of agreement between the States concerned, and that such agreement must be arrived at in accordance with equitable principles. On a foundation of very general precepts of justice and good faith, actual rules of law are here involved which govern the delimitation of adjacent continental shelves—that is to say, rules binding upon States for all delimitations;—in short, it is not a question of applying equity simply as a matter of abstract justice, but of applying a rule of law which itself requires the application of equitable principles, in accordance with the ideas which have always underlain the development of the legal régime of the continental shelf in this field, namely:

(a) the parties are under an obligation to enter into negotiations with a view to arriving at an agreement, and not merely to go through a formal process of negotiation as a sort of prior condition for the automatic application of a certain method of delimitation in the absence of agreement; they are under an obligation so to conduct themselves that the negotiations are meaningful, which will not be the case when either of them insists upon its own position without contemplating any modification of it;

(b) the parties are under an obligation to act in such a way that, in the particular case, and taking all the circumstances into account, equitable principles are applied,—for this purpose the equidistance method can be used, but other methods exist and may be employed, alone or in combination, according to the areas involved;

(c) for the reasons given in paragraphs 43 and 44, the continental shelf of any State must be the natural prolongation of its land territory and must not encroach upon what is the natural prolongation of the territory of another State.

89. It must next be observed that, in certain geographical circumstances which are quite frequently met with, the equidistance method, despite its known advantages, leads unquestionably to inequity, in the following sense:

(a) The slightest irregularity in a coastline is automatically magnified by the equidistance line as regards the consequences for the delimitation of the continental shelf. Thus it has been seen in the case of concave or convex coastlines that if the equidistance method is employed, then the greater the irregularity and the further from the coastline the area to be delimited, the more unreasonable are the results produced. So great an exaggeration of the consequences of a natural geographical feature must be remedied or compensated for as far as possible, being of itself creative of inequity.

(b) In the case of the North Sea in particular, where there is no outer boundary to the continental shelf, it happens that the claims of several States converge, meet and intercross in localities where, despite their distance from the coast, the bed of the sea still un-

questionably consists of continental shelf. A study of these convergences, as revealed by the maps, shows how inequitable would be the apparent simplification brought about by a delimitation which, ignoring such geographical circumstances, was based solely on the equidistance method.

95. The institution of the continental shelf has arisen out of the recognition of a physical fact; and the link between this fact and the law, without which that institution would never have existed, remains an important element for the application of its legal régime. The continental shelf is, by definition, an area physically extending the territory of most coastal States into a species of platform which has attracted the attention first of geographers and hydrographers and then of jurists. The importance of the geological aspect is emphasized by the care which, at the beginning of its investigation, the International Law Commission took to acquire exact information as to its characteristics, as can be seen in particular from the definitions to be found on page 131 of Volume I of the *Yearbook of the International Law Commission* for 1956. The appurtenance of the shelf to the countries in front of whose coastlines it lies, is therefore a fact, and it can be useful to consider the geology of that shelf in order to find out whether the direction taken by certain configurational features should influence delimitation because, in certain localities, they point-up the whole notion of the appurtenance of the continental shelf to the State whose territory it does in fact prolong.

96. The doctrine of the continental shelf is a recent instance of encroachment on maritime expanses which, during the greater part of history, appertained to no-one. The contiguous zone and the continental shelf are in this respect concepts of the same kind. In both instances the principle is applied that the land dominates the sea; it is consequently necessary to examine closely the geographical configuration of the coastlines of the countries whose continental shelves are to be delimited. This is one of the reasons why the Court does not consider that markedly pronounced configurations can be ignored; for, since the land is the legal source of the power which a State may exercise over territorial extensions to seaward, it must first be clearly established what features do in fact constitute such extensions. Above all is this the case when what is involved is no longer areas of sea, such as the contiguous zone, but stretches of submerged land; for the legal régime of the continental shelf is that of a soil and a subsoil, two words evocative of the land and not of the sea.

97. Another factor to be taken into consideration in the delimitation of areas of continental shelf as between adjacent States is the unity of any deposits. The natural resources of the subsoil of the sea in those parts which consist of continental shelf are the very object of the legal régime established subsequent to the Truman Proclamation. Yet it frequently occurs that the same deposit lies on both sides of the line dividing a con-

tinental shelf between two States, and since it is possible to exploit such a deposit from either side, a problem immediately arises on account of the risk of prejudicial or wasteful exploitation by one or other of the States concerned. To look no farther than the North Sea, the practice of States shows how this problem has been dealt with, and all that is needed is to refer to the undertakings entered into by the coastal States of that sea with a view to ensuring the most efficient exploitation or the apportionment of the products extracted—(see in particular the agreement of 10 March 1965 between the United Kingdom and Norway, Article 4; the agreement of 6 October 1965 between the Netherlands and the United Kingdom relating to "the exploitation of single geological structures extending across the dividing line on the continental shelf under the North Sea"; and the agreement of 14 May 1962 between the Federal Republic and the Netherlands concerning a joint plan for exploiting the natural resources underlying the area of the Ems Estuary where the frontier between the two States has not been finally delimited.) The Court does not consider that unity of deposit constitutes anything more than a factual element which it is reasonable to take into consideration in the course of the negotiations for a delimitation. The Parties are fully aware of the existence of the problem as also of the possible ways of solving it.

98. A final factor to be taken account of is the element of a reasonable degree of proportionality which a delimitation effected according to equitable principles ought to bring about between the extent of the continental shelf appertaining to the States concerned and the lengths of their respective coastlines,—these being measured according to their general direction in order to establish the necessary balance between States with straight, and those with markedly concave or convex coasts, or to reduce very irregular coastlines to their truer proportions. The choice and application of the appropriate technical methods would be a matter for the parties. One method discussed in the course of the proceedings, under the name of the principle of the coastal front, consists in drawing a straight baseline between the extreme points at either end of the coast concerned, or in some cases a series of such lines. Where the parties wish to employ in particular the equidistance method of delimitation, the establishment of one or more baselines of this kind can play a useful part in eliminating or diminishing the distortions that might result from the use of that method.

101. For these reasons,

THE COURT,

by eleven votes to six,

finds that, in each case,

(A) the use of the equidistance method of delimitation not being obligatory as between the Parties; and

(B) there being no other single method of delimitation the use of which is in all circumstances obligatory;

(C) the principles and rules of international law applicable to the delimitation as between the Parties of the areas of the continental shelf in the North Sea which appertain to each of them beyond the partial boundary determined by the agreements of 1 December 1964 and 9 June 1965, respectively, are as follows:

(1) delimitation is to be effected by agreement in accordance with equitable principles, and taking account of all the relevant circumstances, in such a way as to leave as much as possible to each Party all those parts of the continental shelf that constitute a natural prolongation of its land territory into and under the sea, without encroachment on the natural prolongation of the land territory of the other;

(2) if, in the application of the preceding sub-paragraph, the delimitation leaves to the Parties areas that overlap, these are to be divided between them in agreed proportions or, failing agreement, equally, unless they decide on a régime of joint jurisdiction, user, or exploitation for the zones of overlap or any part of them;

(D) in the course of the negotiations, the factors to be taken into account are to include:

(1) the general configuration of the coasts of the Parties, as well as the presence of any special or unusual features;

(2) so far as known or readily ascertainable, the physical and geological structure, and natural resources, of the continental shelf areas involved;

(3) the element of a reasonable degree of proportionality, which a delimitation carried out in accordance with equitable principles ought to bring about between the extent of the continental shelf areas appertaining to the coastal State and the length of its coast measured in the general direction of the coastline, account being taken for this purpose of the effects, actual or prospective, of any other continental shelf delimitations between adjacent States in the same region.

Done in English and in French, the English text being authoritative at the Peace Palace, The Hague, this twentieth day of February, one thousand nine hundred and sixty-nine, in four copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Federal Republic of Germany, to the Government of the Kingdom of Denmark and to the Government of the Kingdom of the Netherlands, respectively.

Fisheries Jurisdiction (U.K. v. Ice.) (excerpts), 1974*

* 1974 I.C.J. 3; 6-8 (11,13); 10-15 (19-20, 23, 25, 29); and 20-35 (44, 50-52, 55-58, 60, 62, 66-72, 74, 78-79); (Judgement of July 25). See also Evans, 69 Am. J. Int'l L. 154 (1975).

INTERNATIONAL COURT OF JUSTICE

YEAR 1974

1974
25 July
General List
No. 55

25 July 1974

FISHERIES JURISDICTION CASE

(UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND *v.* ICELAND)

MERITS

Failure of Party to appear—Statute, Article 53.
History of the dispute—Interpretation of interim agreement pending settlement of substantive dispute—Effect on obligation of Court to give judgment.

Jurisdiction of the Court—Effect of previous finding of jurisdiction—Interpretation of compromissory clause.
Icelandic Regulations of 14 July 1972—Extension by coastal State of fisheries jurisdiction to 50 miles from baselines round coast—Extension challenged as contrary to international law—Law of the sea—Geneva Conferences of 1958 and 1960—Concepts of fishery zone and preferential rights of coastal State in situation of special dependence on coastal fisheries—State practice—Exceptional dependence of Iceland on fisheries—Conservation needs—Preferential rights no justification for claim to extinguish concurrent rights of other fishing States—Historic rights of United Kingdom—Regulations of 14 July 1972 not opposable to United Kingdom—Reconciliation of preferential rights of coastal State and rights of other fishing States—Obligation to keep conservation measures of fishery resources under review—Negotiation required for equitable solution—Obligation to negotiate flowing from nature of Parties' respective rights—Various factors relevant to the negotiation.

11. In the course of the written proceedings, the following submissions were presented on behalf of the Government of the United Kingdom:

in the Application:

"The United Kingdom asks the Court to adjudge and declare:

(a) That there is no foundation in international law for the claim by Iceland to be entitled to extend its fisheries jurisdiction by establishing a zone of exclusive fisheries jurisdiction extending to 50 nautical miles from the baselines hereinbefore referred to; and that its claim is therefore invalid; and

(b) that questions concerning the conservation of fish stocks in the waters around Iceland are not susceptible in international law to regulation by the unilateral extension by Iceland of its exclusive fisheries jurisdiction to 50 nautical miles from the aforesaid base-

lines but are matters that may be regulated, as between Iceland and the United Kingdom, by arrangements agreed between those two countries, whether or not together with other interested countries and whether in the form of arrangements reached in accordance with the North-East Atlantic Fisheries Convention of 24 January 1959, or in the form of arrangements for collaboration in accordance with the Resolution on Special Situations relating to Coastal Fisheries of 26 April 1958, or otherwise in the form of arrangements agreed between them that give effect to the continuing rights and interests of both of them in the fisheries of the waters in question."

in the Memorial on the merits:

"... the Government of the United Kingdom submit to the Court that the Court should adjudge and declare:

(a) that the claim by Iceland to be entitled to a zone of exclusive fisheries jurisdiction extending 50 nautical miles from baselines around the coast of Iceland is without foundation in international law and is invalid;

(b) that, as against the United Kingdom, Iceland is not entitled unilaterally to assert an exclusive fisheries jurisdiction beyond the limits agreed to in the Exchange of Notes of 1961;

(c) that Iceland is not entitled unilaterally to exclude British fishing vessels from the area of the high seas beyond the limits agreed to in the Exchange of Notes of 1961 or unilaterally to impose restrictions on the activities of such vessels in that area;

(d) that activities by the Government of Iceland such as are referred to in Part V of this Memorial, that is to say, interference by force or the threat of force with British fishing vessels operating in the said area of the high seas, are unlawful and that Iceland is under an obligation to make compensation therefor to the United Kingdom (the form and amount of such compensation to be assessed, failing agreement between the Parties, in such manner as the Court may indicate); and

(e) that, to the extent that a need is asserted on conservation grounds, supported by properly attested scientific evidence, for the introduction of restrictions on fishing activities in the said area of the high seas, Iceland and the United Kingdom are under a duty to examine together in good faith (either bilaterally or together with other interested States and either by new arrangements or through already existing machinery for international collaboration in these matters such as the North-East Atlantic Fisheries Commission) the existence and extent of that need and similarly to negotiate for the establishment of such a régime for the fisheries of the area as, having due regard to the interests of other States, will ensure for Iceland, in respect of any such restrictions that are shown to be needed as aforesaid, a preferential position consistent with its position as a State specially dependent on those fisheries and as will also ensure for the United Kingdom a position consistent with its traditional interest and acquired rights in and current dependency on those fisheries."

13. No pleadings were filed by the Government of Iceland, which was also not represented at the oral proceedings, and no submissions were therefore presented on its behalf. The attitude of that Government was however defined in the above-mentioned letter of 29 May 1972 from the Minister for Foreign Affairs of Iceland, namely that there was on 14 April 1972 (the date on which the Application was filed) no basis under the Statute for the Court to exercise jurisdiction in the case, and that the Government of Iceland was not willing to confer jurisdiction on the Court. After the Court had decided, by its Judgment of 2 February 1973, that it had jurisdiction to deal with the merits of the dispute, the Minister for Foreign Affairs of Iceland, by letter dated 11 January 1974, informed the Court that:

> "With reference to the time-limit fixed by the Court for the submission of Counter-Memorials by the Government of Iceland, I have the honour to inform you that the position of the Government of Iceland with regard to the proceedings in question remains unchanged and, consequently, no Counter-Memorials will be submitted. At the same time, the Government of Iceland does not accept or acquiesce in any of the statements of facts or allegations or contentions of law contained in the Memorials filed by the Parties concerned."

19. In 1948 the Althing (the Parliament of Iceland) passed a law entitled "Law concerning the Scientific Conservation of the Continental Shelf Fisheries" containing, *inter alia*, the following provisions:

> "*Article 1*
>
> The Ministry of Fisheries shall issue regulations establishing explicitly bounded conservation zones within the limits of the continental shelf of Iceland; wherein all fisheries shall be subject to Icelandic rules and control; Provided that the conservation measures now in effect shall in no way be reduced. The Ministry shall further issue the necessary regulations for the protection of the fishing grounds within the said zones . . .
>
> *Article 2*
>
> The regulations promulgated under Article 1 of the present law shall be enforced only to the extent compatible with agreements with other countries to which Iceland is or may become a party."

20. The 1948 Law was explained by the Icelandic Government in its *exposé des motifs* submitting the Law to the Althing, in which, *inter alia*, it stated:

> "It is well known that the economy of Iceland depends almost entirely on fishing in the vicinity of its coasts. For this reason, the population of Iceland has followed the progressive impoverishment of fishing grounds with anxiety. Formerly, when fishing equipment was far less efficient than it is today, the question appeared in a

different light, and the right of providing for exclusive rights of fishing by Iceland itself in the vicinity of her coasts extended much further than is admitted by the practice generally adopted since 1900. It seems obvious, however, that measures to protect fisheries ought to be extended in proportion to the growing efficiency of fishing equipment.

. . . . . .

In so far as the jurisdiction of States over fishing grounds is concerned, two methods have been adopted. Certain States have proceeded to a determination of their territorial waters, especially for fishing purposes. Others, on the other hand, have left the question of the territorial waters in abeyance and have contented themselves with asserting their exclusive right over fisheries, independently of territorial waters. Of these two methods, the second seems to be the more natural, having regard to the fact that certain considerations arising from the concept of 'territorial waters' have no bearing upon the question of an exclusive right to fishing, and that there are therefore serious drawbacks in considering the two questions together."

23. The 1958 Conference, having failed to reach agreement either on the limit of the territorial sea or on the zone of exclusive fisheries, adopted a resolution requesting the General Assembly to study the advisability of convening a second Law of the Sea Conference specifically to deal with these questions. After the conclusion of the 1958 Conference, Iceland made on 1 June 1958 a preliminary announcement of its intention to reserve the right of fishing within an area of 12 miles from the baselines exclusively to Icelandic fishermen, and to extend the fishing zone also by modification of the baselines, and then on 30 June 1958 issued new "Regulations concerning the Fisheries Limits off Iceland". Article 1 of these proclaimed a new 12-mile fishery limit around Iceland drawn from new baselines defined in that Article, and Article 2 prohibited all fishing activities by foreign vessels within the new fishery limit. Article 7 of the Regulations expressly stated that they were promulgated in accordance with the Law of 1948 concerning Scientific Conservation of the Continental Shelf Fisheries.

25. After the Second United Nations Conference on the Law of the Sea, in 1960, the United Kingdom and Iceland embarked on a series of negotiations with a view to resolving their differences regarding the 12-mile fishery limits and baselines claimed by Iceland in its 1958 Regulations. According to the records of the negotiations which were drawn up by and have been brought to the Court's attention by the Applicant, the Icelandic representatives in their opening statement called attention to the proposals submitted to the 1960 Conference on the Law of the Sea concerning preferential rights and to the widespread support these proposals had received, and asserted that Iceland, as a country in a

special situation, "should receive preferential treatment even beyond 12 miles". Fishery conservation measures outside the 12-mile limit, including the reservation of areas for Icelandic fishing, were discussed, but while the United Kingdom representatives recognized that "Iceland is a 'special situation' country", no agreement was reached regarding fisheries outside the 12-mile limit. In these discussions, the United Kingdom insisted upon receiving an assurance concerning the future extension of Iceland's fishery jurisdiction and a compromissory clause was then included in the Exchange of Notes which was agreed upon by the Parties on 11 March 1961.

29. On 15 February 1972 the Althing adopted a Resolution reiterating the fundamental policy of the Icelandic people that the continental shelf of Iceland and the superjacent waters were within the jurisdiction of Iceland. While repeating that the provisions of the Exchange of Notes of 1961 no longer constituted an obligation for Iceland, it resolved, *inter alia*:

> "1. That the fishery limits will be extended to 50 miles from base-lines around the country, to become effective not later than 1 September 1972.
>
> . . . . . .
>
> 3. That efforts to reach a solution of the problems connected with the extension be continued through discussions with the Governments of the United Kingdom and the Federal Republic of Germany.
>
> 4. That effective supervision of the fish stocks in the Iceland area be continued in consultation with marine biologists and that the necessary measures be taken for the protection of the fish stocks and specified areas in order to prevent over-fishing . . ."

In an aide-mémoire of 24 February 1972 Iceland's Minister for Foreign Affairs formally notified the United Kingdom Ambassador in Reykjavik of his Government's intention to proceed in accordance with this Resolution.

44. The Order of the Court indicating interim measures of protection (*Fisheries Jurisdiction (United Kingdom* v. *Iceland), Interim Protection, Order of 17 August 1972, I.C.J. Reports 1972*, p. 12) implied that the case before the Court involved questions of fishery conservation and of preferential fishing rights since, in indicating a catch-limitation figure for the Applicant's fishing, the Court stated that this measure was based on "the exceptional dependence of the Icelandic nation upon coastal fisheries" and "of the need for the conservation of fish stocks in the Iceland area" (*loc. cit.*, pp. 16-17, paras. 23 and 24).

50. The Geneva Convention on the High Seas of 1958, which was adopted "as generally declaratory of established principles of international law", defines in Article 1 the term "high seas" as "all parts of the

sea that are not included in the territorial sea or in the internal waters of a State". Article 2 then declares that "The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty" and goes on to provide that the freedom of the high seas comprises, *inter alia*, both for coastal and non-coastal States, freedom of navigation and freedom of fishing. The freedoms of the high seas are however made subject to the consideration that they "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".

51. The breadth of the territorial sea was not defined by the 1958 Convention on the Territorial Sea and the Contiguous Zone. It is true that Article 24 of this Convention limits the contiguous zone to 12 miles "from the baseline from which the breadth of the territorial sea is measured". At the 1958 Conference, the main differences on the breadth of the territorial sea were limited at the time to disagreements as to what limit, not exceeding 12 miles, was the appropriate one. The question of the breadth of the territorial sea and that of the extent of the coastal State's fishery jurisdiction were left unsettled at the 1958 Conference. These questions were referred to the Second Conference on the Law of the Sea, held in 1960. Furthermore, the question of the extent of the fisheries jurisdiction of the coastal State, which had constituted a serious obstacle to the reaching of an agreement at the 1958 Conference, became gradually separated from the notion of the territorial sea. This was a development which reflected the increasing importance of fishery resources for all States.

52. The 1960 Conference failed by one vote to adopt a text governing the two questions of the breadth of the territorial sea and the extent of fishery rights. However, after that Conference the law evolved through the practice of States on the basis of the debates and near-agreements at the Conference. Two concepts have crystallized as customary law in recent years arising out of the general consensus revealed at that Conference. The first is the concept of the fishery zone, the area in which a State may claim exclusive fishery jurisdiction independently of its territorial sea; the extension of that fishery zone up to a 12-mile limit from the baselines appears now to be generally accepted. The second is the concept of preferential rights of fishing in adjacent waters in favour of the coastal State in a situation of special dependence on its coastal fisheries, this preference operating in regard to other States concerned in the exploitation of the same fisheries, and to be implemented in the way indicated in paragraph 57 below.

55. The concept of preferential rights for the coastal State in a situation of special dependence on coastal fisheries originated in proposals submitted by Iceland at the Geneva Conference of 1958. Its delegation drew attention to the problem which would arise when, in spite of adequate fisheries conservation measures, the yield ceased to be sufficient to satisfy

the requirements of all those who were interested in fishing in a given area. Iceland contended that in such a case, when a catch-limitation becomes necessary, special consideration should be given to the coastal State whose population is overwhelmingly dependent on the fishing resources in its adjacent waters.

56. An Icelandic proposal embodying these ideas failed to obtain the majority required, but a resolution was adopted at the 1958 Conference concerning the situation of countries or territories whose people are overwhelmingly dependent upon coastal fisheries for their livelihood or economic development. This resolution, after "recognizing that such situations call for exceptional measures befitting particular needs" recommended that:

> ". . . where, for the purpose of conservation, it becomes necessary to limit the total catch of a stock or stocks of fish in an area of the high seas adjacent to the territorial sea of a coastal State, any other States fishing in that area should collaborate with the coastal State to secure just treatment of such situation, by establishing agreed measures which shall recognize any preferential requirements of the coastal State resulting from its dependence upon the fishery concerned while having regard to the interests of the other States".

The resolution further recommended that "appropriate conciliation and arbitral procedures shall be established for the settlement of any disagreement".

57. At the Plenary Meetings of the 1960 Conference the concept of preferential rights was embodied in a joint amendment presented by Brazil, Cuba and Uruguay which was subsequently incorporated by a substantial vote into a joint United States-Canadian proposal concerning a 6-mile territorial sea and an additional 6-mile fishing zone, thus totalling a 12-mile exclusive fishing zone, subject to a phasing-out period. This amendment provided, independently of the exclusive fishing zone, that the coastal State had:

> ". . . the faculty of claiming preferential fishing rights in any area of the high seas adjacent to its exclusive fishing zone when it is scientifically established that a special situation or condition makes the exploitation of the living resources of the high seas in that area of fundamental importance to the economic development of the coastal State or the feeding of its population".

It also provided that:

> "A special situation or condition may be deemed to exist when:

(a) The fisheries and the economic development of the coastal State or the feeding of its population are so manifestly interrelated that, in consequence, that State is greatly dependent on the living resources of the high seas in the area in respect of which preferential fishing is being claimed;

(b) It becomes necessary to limit the total catch of a stock or stocks of fish in such areas . . ."

The contemporary practice of States leads to the conclusion that the preferential rights of the coastal State in a special situation are to be implemented by agreement between the States concerned, either bilateral or multilateral, and, in case of disagreement, through the means for the peaceful settlement of disputes provided for in Article 33 of the Charter of the United Nations. It was in fact an express condition of the amendment referred to above that any other State concerned would have the right to request that a claim made by a coastal State should be tested and determined by a special commission on the basis of scientific criteria and of evidence presented by the coastal State and other States concerned. The commission was to be empowered to determine, for the period of time and under the limitations that it found necessary, the preferential rights of the coastal State, "while having regard to the interests of any other State or States in the exploitation of such stock or stocks of fish".

58. State practice on the subject of fisheries reveals an increasing and widespread acceptance of the concept of preferential rights for coastal States, particularly in favour of countries or territories in a situation of special dependence on coastal fisheries. Both the 1958 Resolution and the 1960 joint amendment concerning preferential rights were approved by a large majority of the Conferences, thus showing overwhelming support for the idea that in certain special situations it was fair to recognize that the coastal State had preferential fishing rights. After these Conferences, the preferential rights of the coastal State were recognized in various bilateral and multilateral international agreements. The Court's attention has been drawn to the practice in this regard of the North-West and North-East Atlantic Fisheries Commissions, of which 19 maritime States altogether, including both Parties, are members; its attention has also been drawn to the Arrangement Relating to Fisheries in Waters Surrounding the Faroe Islands, signed at Copenhagen on 18 December 1973 on behalf of the Governments of Belgium, Denmark, France, the Federal Republic of Germany, Norway, Poland and the United Kingdom, and to the Agreement on the Regulation of the Fishing of North-East Arctic (Arcto-Norwegian) Cod, signed on 15 March 1974 on behalf of the Governments of the United Kingdom, Norway and the Union of Soviet Socialist Republics. Both the aforesaid agreements, in allocating the annual shares on the basis of the past performance of the parties in the

area, assign an additional share to the coastal State on the ground of its preferential right in the fisheries in its adjacent waters. The Faroese agreement takes expressly into account in its preamble "the exceptional dependence of the Faroese economy on fisheries" and recognizes "that the Faroe Islands should enjoy preference in waters surrounding the Faroe Islands".

60. The preferential rights of the coastal State come into play only at the moment when an intensification in the exploitation of fishery resources makes it imperative to introduce some system of catch-limitation and sharing of those resources, to preserve the fish stocks in the interests of their rational and economic exploitation. This situation appears to have been reached in the present case. In regard to the two main demersal species concerned—cod and haddock—the Applicant has shown itself aware of the need for a catch-limitation which has become indispensable in view of the establishment of catch-limitations in other regions of the North Atlantic. If a system of catch-limitation were not established in the Icelandic area, the fishing effort displaced from those other regions might well be directed towards the unprotected grounds in that area.

62. The concept of preferential rights is not compatible with the exclusion of all fishing activities of other States. A coastal State entitled to preferential rights is not free, unilaterally and according to its own uncontrolled discretion, to determine the extent of those rights. The characterization of the coastal State's rights as preferential implies a certain priority, but cannot imply the extinction of the concurrent rights of other States, and particularly of a State which, like the Applicant, has for many years been engaged in fishing in the waters in question, such fishing activity being important to the economy of the country concerned. The coastal State has to take into account and pay regard to the position of such other States, particularly when they have established an economic dependence on the same fishing grounds. Accordingly, the fact that Iceland is entitled to claim preferential rights does not suffice to justify its claim unilaterally to exclude the Applicant's fishing vessels from all fishing activity in the waters beyond the limits agreed to in the 1961 Exchange of Notes.

66. Considerations similar to those which have prompted the recognition of the preferential rights of the coastal State in a special situation apply when coastal populations in other fishing States are also dependent on certain fishing grounds. In both instances the economic dependence and the livelihood of whole communities are affected. Not only do the same considerations apply, but the same interest in conservation exists. In this respect the Applicant has recognized that the conservation and efficient exploitation of the fish stocks in the Iceland area are of importance not only to Iceland but also to the United Kingdom.

67. The provisions of the Icelandic Regulations of 14 July 1972 and

the manner of their implementation disregard the fishing rights of the Applicant. Iceland's unilateral action thus constitutes an infringement of the principle enshrined in Article 2 of the 1958 Geneva Convention on the High Seas which requires that all States, including coastal States, in exercising their freedom of fishing, pay reasonable regard to the interests of other States. It also disregards the rights of the Applicant as they result from the Exchange of Notes of 1961. The Applicant is therefore justified in asking the Court to give all necessary protection to its own rights, while at the same time agreeing to recognize Iceland's preferential position. Accordingly, the Court is bound to conclude that the Icelandic Regulations of 14 July 1972 establishing a zone of exclusive fisheries jurisdiction extending to 50 nautical miles from baselines around the coast of Iceland, are not opposable to the United Kingdom, and the latter is under no obligation to accept the unilateral termination by Iceland of United Kingdom fishery rights in the area.

68. The findings stated by the Court in the preceding paragraphs suffice to provide a basis for the decision of the present case, namely: that Iceland's extension of its exclusive fishery jurisdiction beyond 12 miles is not opposable to the United Kingdom; that Iceland may on the other hand claim preferential rights in the distribution of fishery resources in the adjacent waters; that the United Kingdom also has established rights with respect to the fishery resources in question; and that the principle of reasonable regard for the interests of other States enshrined in Article 2 of the Geneva Convention on the High Seas of 1958 requires Iceland and the United Kingdom to have due regard to each other's interests, and to the interests of other States, in those resources.

69. It follows from the reasoning of the Court in this case that in order to reach an equitable solution of the present dispute it is necessary that the preferential fishing rights of Iceland, as a State specially dependent on coastal fisheries, be reconciled with the traditional fishing rights of the Applicant. Such a reconciliation cannot be based, however, on a phasing-out of the Applicant's fishing, as was the case in the 1961 Exchange of Notes in respect of the 12-mile fishery zone. In that zone, Iceland was to exercise exclusive fishery rights while not objecting to continued fishing by the Applicant's vessels during a phasing-out period. In adjacent waters outside that zone, however, a similar extinction of rights of other fishing States, particularly when such rights result from a situation of economic dependence and long-term reliance on certain fishing grounds, would not be compatible with the notion of preferential rights as it was recognized at the Geneva Conferences of 1958 and 1960, nor would it be equitable. At the 1960 Conference, the concept of preferential rights of coastal States in a special situation was recognized in the joint amendment referred to in paragraph 57 above, under such limitations and to such extent as is found "necessary by reason of the dependence of the coastal State on the stock or stocks of fish, while having regard to the interests of any other State or States in the exploitation of

such stock or stocks of fish". The reference to the interests of other States in the exploitation of the same stocks clearly indicates that the preferential rights of the coastal State and the established rights of other States were considered as, in principle, continuing to co-exist.

70. This is not to say that the preferential rights of a coastal State in a special situation are a static concept, in the sense that the degree of the coastal State's preference is to be considered as fixed for ever at some given moment. On the contrary, the preferential rights are a function of the exceptional dependence of such a coastal State on the fisheries in adjacent waters and may, therefore, vary as the extent of that dependence changes. Furthermore, as was expressly recognized in the 1961 Exchange of Notes, a coastal State's exceptional dependence on fisheries may relate not only to the livelihood of its people but to its economic development. In each case, it is essentially a matter of appraising the dependence of the coastal State on the fisheries in question in relation to that of the other State concerned and of reconciling them in as equitable a manner as is possible.

71. In view of the Court's finding (paragraph 67 above) that the Icelandic Regulations of 14 July 1972 are not opposable to the United Kingdom for the reasons which have been stated, it follows that the Government of Iceland is not in law entitled unilaterally to exclude United Kingdom fishing vessels from sea areas to seaward of the limits agreed to in the 1961 Exchange of Notes or unilaterally to impose restrictions on their activities in such areas. But the matter does not end there; as the Court has indicated, Iceland is, in view of its special situation, entitled to preferential rights in respect of the fish stocks of the waters adjacent to its coasts. Due recognition must be given to the rights of both Parties, namely the rights of the United Kingdom to fish in the waters in dispute, and the preferential rights of Iceland. Neither right is an absolute one: the preferential rights of a coastal State are limited according to the extent of its special dependence on the fisheries and by its obligation to take account of the rights of other States and the needs of conservation; the established rights of other fishing States are in turn limited by reason of the coastal State's special dependence on the fisheries and its own obligation to take account of the rights of other States, including the coastal State, and of the needs of conservation.

72. It follows that even if the Court holds that Iceland's extension of its fishery limits is not opposable to the Applicant, this does not mean that the Applicant is under no obligation to Iceland with respect to fishing in the disputed waters in the 12-mile to 50-mile zone. On the contrary, both States have an obligation to take full account of each other's rights and of any fishery conservation measures the necessity of which is shown

to exist in those waters. It is one of the advances in maritime international law, resulting from the intensification of fishing, that the former *laissez-faire* treatment of the living resources of the sea in the high seas has been replaced by a recognition of a duty to have due regard to the rights of other States and the needs of conservation for the benefit of all. Consequently, both Parties have the obligation to keep under review the fishery resources in the disputed waters and to examine together, in the light of scientific and other available information, the measures required for the conservation and development, and equitable exploitation, of those resources, taking into account any international agreement in force between them, such as the North-East Atlantic Fisheries Convention of 24 January 1959, as well as such other agreements as may be reached in the matter in the course of further negotiation.

74. It is implicit in the concept of preferential rights that negotiations are required in order to define or delimit the extent of those rights, as was already recognized in the 1958 Geneva Resolution on Special Situations relating to Coastal Fisheries, which constituted the starting point of the law on the subject. This Resolution provides for the establishment, through collaboration between the coastal State and any other State fishing in the area, of agreed measures to secure just treatment of the special situation.

78. In the fresh negotiations which are to take place on the basis of the present Judgment, the Parties will have the benefit of the above appraisal of their respective rights, and of certain guidelines defining their scope. The task before them will be to conduct their negotiations on the basis that each must in good faith pay reasonable regard to the legal rights of the other in the waters around Iceland outside the 12-mile limit, thus bringing about an equitable apportionment of the fishing resources based on the facts of the particular situation, and having regard to the interests of other States which have established fishing rights in the area. It is not a matter of finding simply an equitable solution, but an equitable solution derived from the applicable law. As the Court stated in the *North Sea Continental Shelf* cases:

> ". . . it is not a question of applying equity simply as a matter of abstract justice, but of applying a rule of law which itself requires the application of equitable principles" (*I.C.J. Reports 1969*, p. 47, para. 85).

79. For these reasons,

THE COURT,

by ten votes to four,

(1) finds that the Regulations concerning the Fishery Limits off Iceland *(Reglugerð um fiskveiðilandhelgi Íslands)* promulgated by the

Government of Iceland on 14 July 1972 and constituting a unilateral extension of the exclusive fishing rights of Iceland to 50 nautical miles from the baselines specified therein are not opposable to the Government of the United Kingdom;

(2) finds that, in consequence, the Government of Iceland is not entitled unilaterally to exclude United Kingdom fishing vessels from areas between the fishery limits agreed to in the Exchange of Notes of 11 March 1961 and the limits specified in the Icelandic Regulations of 14 July 1972, or unilaterally to impose restrictions on the activities of those vessels in such areas;

by ten votes to four,

(3) holds that the Government of Iceland and the Government of the United Kingdom are under mutual obligations to undertake negotiations in good faith for the equitable solution of their differences concerning their respective fishery rights in the areas specified in subparagraph 2;

(4) holds that in these negotiations the Parties are to take into account, *inter alia*:

(a) that in the distribution of the fishing resources in the areas specified in subparagraph 2 Iceland is entitled to a preferential share to the extent of the special dependence of its people upon the fisheries in the seas around its coasts for their livelihood and economic development;

(b) that by reason of its fishing activities in the areas specified in subparagraph 2, the United Kingdom also has established rights in the fishery resources of the said areas on which elements of its people depend for their livelihood and economic well-being;

(c) the obligation to pay due regard to the interests of other States in the conservation and equitable exploitation of these resources;

(d) that the above-mentioned rights of Iceland and of the United Kingdom should each be given effect to the extent compatible with the conservation and development of the fishery resources in the areas specified in subparagraph 2 and with the interests of other States in their conservation and equitable exploitation;

(e) their obligation to keep under review those resources and to examine together, in the light of scientific and other available information, such measures as may be required for the conservation and development, and equitable exploitation, of those resources, making use of the machinery established by the North-East Atlantic Fisheries Convention or such other means as may be agreed upon as a result of international negotiations.

Done in English, and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-fifth day of July, one thousand nine hundred and seventy-four, in three copies, of which one will be placed in the archives of the Court and the others transmitted to the Government of the United Kingdom of Great Britain and Northern Ireland and to the Government of the Republic of Iceland respectively.

Continental Shelf Case (U.K. v. Fr.) (excerpts), 1977*

* 18 R. Int'l Arb. Awards 3; 5 (Art. 2); 21-22 (13); 44-52 (66, 70, 75, 77-82, 84-85); 57-58 (97, 99-101); 91-93 (191, 194-195); 111-112 (239-240); and 116-117 (249-251) (1977). See also Colson, 72 Am. J. Int'l L. 95 (1978).

CASE CONCERNING THE DELIMITATION OF THE CONTINENTAL SHELF BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AND THE FRENCH REPUBLIC

DECISION OF 30 JUNE 1977

Settlement of the actual delimitation disputes and drawing of the boundaries in a Chart—Decision to constitute a *res inter alios acta*—Applicable law—Limitation of the value of the work of the Third United Nations Conference on the Law of the Sea and affirmation of the view that a court cannot render judgement *sub specie legis ferendae*—No conclusive evidence to the effect that the Continental Shelf Convention of 1958 is considered as already obsolete and note a treaty in force between its parties—Reservations to multilateral treaties distinguished from "interpretive declarations"—Consideration of the concept of "natural prolongation" and its relevance in the delimitation of opposite or adjacent coasts—Consideration of the concept of "proximity" and "absolute proximity" as method of delimitation—Definition of "special circumstances" within the meaning of Article 6 of the Continental Shelf Convention—The question of burden of proof in relation to special circumstances—Consideration of islands and archipelagos as "special circumstances"—The concept of giving partial effect to islands in the delimitation process—Consideration of "Median-equidistance" line as delimitation criterion to opposite or adjacent coasts—Assessment of the relationship between the "Median-equidistance" criteria for delimitation adopted in the Continental Shelf Convention and "equitable principles" criterion as customary international law adopted by ICJ in the *North Sea Continental Shelf Cases*—Emphasis on equitable delimitation relying upon a combined "equidistance-special circumstances" rule of the Continental Shelf Convention and the customary law of "equitable principles"—No legal limits of factors to be taken into account in the application of equitable principles—Consideration of the role of proportionality between the areas of continental shelf and the lengths of the coastlines—Affirmation of the view that delimitation is neither an apportionment nor merely the process of awarding of an equitable "share" of the Continental Shelf to each Party.

ARBITRATION AGREEMENT SIGNED AT PARIS, 10 JULY 1975

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic,

Considering that agreement in principle has been reached between the two Governments on the delimitation of the portion of the continental shelf in the English Channel eastward of 30 minutes west of the Greenwich Meridian appertaining to each of them;

Considering that differences have arisen between the two Governments concerning the delimitation of the portion of the continental shelf westward of 30 minutes west of that Meridian appertaining to each of them which could not be settled by negotiation;

Considering the urgency of settling these differences by a process of arbitration which should result in a speedy decision on the remaining issues in dispute;

Have agreed as follows:

Article 2

1. The Court is requested to decide, in accordance with the rules of international law applicable in the matter as between the Parties, the following question:

What is the course of the boundary (or boundaries) between the portions of the continental shelf appertaining to the United Kingdom and the Channel Islands and to the French Republic, respectively, westward of 30 minutes west of the Greenwich Meridian as far as the 1,000 metre isobath?

2. The choice of the 1,000 metre isobath is without prejudice to the position of either Government concerning the outer limit of the continental shelf.

13. The task entrusted to the Court by Article 2(1) of the Arbitration Agreement is to decide "what is the course of the boundary (or boundaries) between the portions of the continental shelf appertaining to the United Kingdom and the Channel Islands and to the French Republic" within the arbitration area. The preamble to the Agreement likewise speaks of differences "between the two Governments concerning the delimitation of the portion of the continental shelf . . . appertaining to each of them which could not be settled by negotiation". It is, therefore, clear that the competence conferred on the Court by Article 2(1) of the Agreement relates specifically to the delimitation in the arbitration area of the boundary of the continental shelf. Moreover, the term "continental shelf", as used in international law at the date of the conclusion of the Arbitration Agreement, was a legal term denoting only "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea" (Geneva Convention of 1958 on the Continental Shelf, Article 1). It follows, in the opinion of the Court, that the Arbitration Agreement does not confer upon it any competence to settle differences between the Parties regarding the boundary of their respective zones of territorial sea or of their respective fishery zones, and still less to pronounce upon the boundary of the Economic Zone declared by the French Republic in a law of 16 July 1976.

66. Article 6, paragraphs 1 and 2, provides:

> 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.

The case with which the Court is here concerned is one where, after negotiations for the determination of the boundary by agreement, the States concerned failed to reach agreement, and it is therefore the provisions of these paragraphs applicable in the absence of agreement which come under consideration in the present proceedings. The arguments addressed to the Court by the Parties concerning the applicability or non-applicability of these provisions are directed, on the one side, to accent and, on the other, to minimise the rôle of the equidistance method as a legal criterion for the delimitation of continental shelf boundaries.

70. The Court does not overlook that under Article 6 the equidistance principle ultimately possesses an obligatory force which it does not have in the same measure under the rules of customary law; for Article 6 makes the application of the equidistance principle a matter of treaty obligation for Parties to the Convention. But the combined character of the equidistance-special circumstances rule means that the obligation to apply the equidistance principle is always one qualified by the condition "unless another boundary

line is justified by special circumstances". Moreover, the *travaux préparatoires* of Article 6, in the International Law Commission and at the Geneva Conference of 1958, show that this condition was introduced into paragraphs 1 and 2 of the Article because it was recognised that, owing to particular geographical features or configurations, application of the equidistance principle might not infrequently result in an unreasonable or inequitable delimitation of the continental shelf. In short, the rôle of the "special circumstances" condition in Article 6 is to ensure an equitable delimitation; and the combined "equidistance-special circumstances rule", in effect, gives particular expression to a general norm that, failing agreement, the boundary between States abutting on the same continental shelf is to be determined on equitable principles. In addition, Article 6 neither defines "special circumstances" nor lays down the criterion by which it is to be assessed whether any given circumstances justify a boundary line other than the equidistance line. Consequently, even under Article 6 the question whether the use of the equidistance principle or some other method is appropriate for achieving an equitable delimitation is very much a matter of appreciation in the light of the geographical and other circumstances. In other words, even under Article 6 it is the geographical and other circumstances of any given case which indicate and justify the use of the equidistance method as the means of achieving an equitable solution rather than the inherent quality of the method as a legal norm of delimitation.

75. It follows from the foregoing paragraphs that, if the Channel Islands region is excluded as falling under the French reservation, the Court considers that Article 6 is applicable, in principle, to the delimitation of the continental shelf as between the Parties under the Arbitration Agreement. This does not, however, mean that the Court considers the rules of customary law discussed in the judgement in the *North Sea Continental Shelf* cases to be inapplicable in the present case. As already pointed out, the provisions of Article 6 do not define the condition for the application of the equidistance-special circumstances rule; moreover, the equidistance-special circumstances rule and the rules of customary law have the same object—the delimitation of the boundary in accordance with equitable principles. In the view of this Court, therefore, the rules of customary law are a relevant and even essential means both for interpreting and completing the provisions of Article 6. Indeed, the Court observes that in the present case, whether discussing the application of Article 6 or the position under customary law, both parties have had free recourse to pronouncements of the International Court of Justice regarding the rules of customary law applicable in the matter. At the same time, the Court also observes that they have tended to lay stress on different elements in the judgement in the *North Sea Continental Shelf* cases; and it is therefore now necessary to refer to some of those pronouncements.

77. Many of the Court's pronouncements were, however, evidently of a general character and applicable to a delimitation under Article 6 no less than under customary law. Thus, the Court described the principle that a coastal State has inherent rights in the continental shelf which constitutes the natural prolongation of its land territory as "the most fundamental of all the

rules of law relating to the continental shelf" and as "enshrined in Article 2 of the 1958 Geneva Convention, though quite independent of it". Under this rule, it explained (I.C.J. Reports 1969, paragraph 19):

> the rights of the coastal State in respect of the area of continental shelf that constitutes a natural prolongation of its land territory into and under the sea exist *ipso facto* and *ab initio*, by virtue of its sovereignty over the land, and as an extension of it in an exercise of sovereign rights for the purpose of exploring the seabed and exploiting its natural resources.

From this fundamental rule the Court drew two conclusions concerning the delimitation of the continental shelf which the Parties to the present proceedings are clearly correct in regarding as equally being of general application.

78. The first of these conclusions was that delimitation of the continental shelf is not a question of apportionment, that is of awarding "just and equitable" shares to each State in a common, as yet undelimited, area of shelf. On the contrary, delimitation is essentially a process of "drawing a boundary line between areas which already appertain to one or other of the States affected" (I.C.J. Reports 1969, paragraph 20). Accordingly, although the delimitation in the present case must be equitable, it cannot have as its object simply the awarding of an equitable "share" in the continental shelf to each Party. The delimitation, when made, will in practice divide the continental shelf in the arbitration area between the French Republic and the United Kingdom in what may then be said to be shares; but this will be only the incidental result of fixing their boundary in the marginal areas where their respective continental shelves converge.

79. The second conclusion was "that the continental shelf of any State must be the natural prolongation of its land territory and must not encroach upon what is the natural prolongation of the territory of another State" (*ibid.*, paragraph 85(*c*)). This conclusion follows directly from the fundamental rule itself and is, indeed, merely an application of that rule to the context of a single area of continental shelf upon which the territories of two or more States abut. So far as delimitation is concerned, however, this conclusion states the problem rather than solves it. The problem of delimitation arises precisely because in situations where the territories of two or more States abut on a single continuous area of continental shelf, it may be said geographically to constitute a natural prolongation of the territory of each of the States concerned. Consequently, it is rather in the rules of customary law discussed in the *North Sea Continental Shelf* cases and which are specifically directed to delimitation that guidance may be sought regarding the principles to be applied in determining the boundary of the continental shelf in such situations.

80. In close relation with the principle of the natural prolongation of the land, the Court examined the rôle of "proximity" in determining the appurtenance of an area of continental shelf to one State rather than to another. Having observed that there is "no necessary, and certainly no complete, identity between the notions of 'adjacency' and 'proximity' ", it said that "the question of which parts of the continental shelf 'adjacent to' a coastline bordering more than one State fall within the appurtenance of which of them

remains to this extent an open one, not to be determined on a basis exclusively of proximity". It then continued (I.C.J. Reports 1969, paragraph 42):

> Even if proximity may afford one of the tests to be applied and an important one in the right conditions, it may not necessarily be the only, nor in all circumstances the most appropriate one. Hence it would seem that the notion of adjacency, so constantly employed in continental shelf doctrine from the start, only implies proximity in a general sense, and does not imply any fundamental or inherent rule the ultimate effect of which would be to prohibit any State (otherwise than by agreement) from exercising continental shelf rights in respect of areas closer to the coast of another State.

The Parties to the present proceedings both appear to accept that these observations were intended to relate generally to the delimitation of the continental shelf, whether under customary law or under the 1958 Convention. The significance which they give to the observations differs, however, in some respects. The French Government lays stress on them as involving a finding by the International Court that "proximity" does not confer any title to rights over the continental shelf. What, in its view, the International Court's observations imply is that it is the principle of the continuity of the coastal State's territory, not of "proximity", which is decisive in giving title to the continental shelf. The United Kingdom, on the other hand, while not questioning the International Court's rejection of proximity as by itself a ground of title to the shelf, insists that the Court "did not thereby reject proximity as a method employable in solving the problem of delimitation". What the Court rejected, the United Kingdom maintains, was "absolute proximity", not proximity as a method of delimitation.

81. The observations of the International Court of Justice appear to speak for themselves. Clearly, the Court did decline to regard proximity as by itself a ground of title to areas of continental shelf. Clearly, however, it did also expressly recognise that proximity "may afford one of the tests to be applied and an important one in the right conditions". This would seem to state explicitly that under certain conditions proximity may be the appropriate test or method for delimiting the boundary of the continental shelf; but that in any given case the value to be attached to proximity as a method of delimitation depends on the individual circumstances of that case. That such was indeed the view taken by the International Court of Justice of the rôle of proximity in the delimitation of the continental shelf is borne out by its further observations regarding the rôle in the delimitation of the shelf of the equidistance principle, which itself is founded upon the criterion of proximity. In any event, this Court of Arbitration sees no reason to adopt a different view of the rôle of "proximity" in the circumstances of the present case. It will, therefore, at once turn to the observations of the International Court of Justice on the rôle of the equidistance principle, since these touch questions that are central to the determination of the course of the continental shelf boundary in the English Channel and the Atlantic region.

82. The International Court of Justice, as already indicated in paragraph 76, held that the equidistance rule laid down in Article 6 of the Convention is not the expression of a rule which is also applicable in customary

law. In so holding, the Court took the view that the equidistance principle itself is not inherent in the doctrine of the continental shelf nor a logical necessity of that doctrine derived from any fundamental principle of proximity or adjacency; and it also emphasised the doubts voiced in the International Law Commission as to the possibility that, in certain cases, the geographical configuration of the coast would render a boundary drawn on the basis of equidistance inequitable. So it was that the Court was led to conclude that in customary law the basic principle of delimitation is that, failing agreement, the boundary must be determined in accordance with equitable principles. So it was also that, for the purpose of applying equitable principles, the Court held that "the equidistance method can be used, but other methods exist and may be employed, alone or in combination, according to the areas involved" (I.C.J. Reports 1969, paragraph 85(*b*)). It said, indeed, that "there is no legal limit to the considerations which States may take account of for the purpose of making sure that they apply equitable procedures" (*ibid.*, paragraph 93).

84. Neither of these interpretations of the judgement in the *North Sea Continental Shelf* cases appears, however, to place in its proper perspective the rôle of the equidistance principle, as explained by the International Court in those cases. The Court there made certain observations, which were of an entirely general character, regarding the differing validity of the equidistance principle as a means of achieving an equitable delimitation in different geographical situations. These observations, to which the present Court of Arbitration in general subscribes, indicate that the validity of the equidistance method, or of any other method, as a means of achieving an equitable delimitation of the continental shelf is always relative to the particular geographical situation. In short, whether under customary law or Article 6, it is never a question either of complete or of no freedom of choice as to method; for the appropriateness—the equitable character—of the method is always a function of the particular geographical situation.

85. As to the Court's observations on the rôle of the equidistance principle, it was far from discounting the value of the equidistance method of delimitation, while declining to regard it as obligatory under customary law. "It has never been doubted", the Court commented, "that the equidistance method is a very convenient one, the use of which is indicated in a considerable number of cases (I.C.J. Reports 1969, paragraph 22); and again it commented "it would probably be true to say that no other method of delimitation has the same combination of practical convenience and certainty of application" (*ibid.*, paragraph 23). The truth of these observations is certainly borne out by State practice, which shows that up to date a large proportion of the delimitations of the continental shelf have been effected by the application either of the equidistance method or, not infrequently, of some variant of that method. But the Court also drew a clear, and even sharp, distinction between the geographical situations where the coasts of States abutting on the same continental shelf are opposite and where they are adjacent to each other (*ibid.*, paragraph 57):

> Most of the difficulties felt in the International Law Commission related, as here, to the case of the lateral boundary between adjacent States. Less difficulty was felt over that

> of the median line boundary between opposite States, although it too is an equidistance line. For this there seems to the Court to be good reason. The continental shelf area off, and dividing, opposite States, can be claimed by each of them to be a natural prolongation of its territory. These prolongations meet and overlap, and can therefore only be delimited by means of a median line; and, ignoring the presence of islets, rocks and minor coastal projections, the disproportionally distorting effect of which can be eliminated by other means, such a line must effect an equal division of the particular area involved. . . . This type of case is therefore different from that of laterally adjacent States on the same coast with no immediately opposite coast in front of it, and does not give rise to the same kind of problem—a conclusion which also finds some confirmation in the difference of language to be observed in the two paragraphs of Article 6 of the Geneva Convention[1] . . . as respects recourse in the one case to median lines and in the other to lateral equidistance lines, in the event of absence of agreement.

Further explaining its reason for making this distinction, the Court said (I.C.J. Reports 1969, paragraph 58):

> whereas a median line divides equally between the two opposite countries areas that can be regarded as being the natural prolongation of the territory of each of them, a lateral equidistance line often leaves to one of the States concerned areas that are a natural prolongation of the territory of the other.

97. In short, this Court considers that the appropriateness of the equidistance method or any other method for the purpose of effecting an equitable delimitation is a function or reflection of the geographical and other relevant circumstances of each particular case. The choice of the method or methods of delimitation in any given case, whether under the 1958 Convention or customary law, has therefore to be determined in the light of those circumstances and of the fundamental norm that the delimitation must be in accordance with equitable principles. Furthermore, in appreciating the appropriateness of the equidistance method as a means of achieving an equitable solution, regard must be had to the difference between a "lateral" boundary between "adjacent" States and a "median" boundary between "opposite" States.

99. In particular, this Court does not consider that the adoption in the *North Sea Continental Shelf* cases of the criterion of a reasonable degree of proportionality between the areas of continental shelf and the lengths of the coastlines means that this criterion is one for application in all cases. On the contrary, it was the particular geographical situation of three adjoining States situated on a concave coast which gave relevance to that criterion in those cases. In the present case, the rôle of proportionality in the delimitation of the continental shelf is, in the view of this Court, a broader one, not linked to any specific geographical feature. It is rather a factor to be taken into account in appreciating the effects of geographical features on the equitable or inequitable character of a delimitation, and in particular of a delimitation by application of the equidistance method.

100. A State's continental shelf, being the natural prolongation under the sea of its territory, must in large measure reflect the configuration of its coasts. Similarly, when two "opposite" or "adjacent" States abut on the same continental shelf, their continental shelf boundary must in large measure reflect the respective configurations of their two coasts. But particular

[1] The text of the two paragraphs appears in paragraph 66 above.

configurations of the coast or individual geographical features may, under certain conditions, distort the course of the boundary, and thus affect the attribution of continental shelf to each State, which would otherwise be indicated by the general configuration of their coasts. The concept of "proportionality" merely expresses the criterion or factor by which it may be determined whether such a distortion results in an inequitable delimitation of the continental shelf as between the coastal States concerned. The factor of proportionality may appear in the form of the ratio between the areas of continental shelf to the lengths of the respective coastlines, as in the *North Sea Continental Shelf* cases. But it may also appear, and more usually does, as a factor for determining the reasonable or unreasonable—the equitable or inequitable—effects of particular geographical features or configurations upon the course of an equidistance-line boundary.

101. In short, it is disproportion rather than any general principle of proportionality which is the relevant criterion or factor. The equitable delimitation of the continental shelf is not, as this Court has already emphasized in paragraph 78, a question of apportioning—sharing out—the continental shelf amongst the States abutting upon it. Nor is it a question of simply assigning to them areas of the shelf in proportion to the length of their coastlines; for to do this would be to substitute for the delimitation of boundaries a distributive apportionment of shares. Furthermore, the fundamental principle that the continental shelf appertains to a coastal State as being the natural prolongation of its territory places definite limits on recourse to the factor of proportionality. As was emphasized in the *North Sea Continental Shelf* cases (I.C.J. Reports 1969, paragraph 91), there can never be a question of completely refashioning nature, such as by rendering the situation of a State with an extensive coastline similar to that of a State with a restricted coastline; it is rather a question of remedying the disproportionality and inequitable effects produced by particular geographical configurations or features in situations where otherwise the appurtenance of roughly comparable attributions of continental shelf to each State would be indicated by the geographical facts. Proportionality, therefore is to be used as a criterion or factor relevant in evaluating the equities of certain geographical situations, not as a general principle providing an independent source of rights to areas of continental shelf.

191. The continental shelf of the Channel Islands and of the mainlands of France and of the United Kingdom, in law, appertains to each of them as being the natural prolongation of its land territory under the sea. The physical continuity of the continental shelf of the English Channel means that geographically it may be said to be a natural prolongation of each one of the territories which abut upon it. The question for the Court to decide, however, is what areas of continental shelf are to be considered as *legally* the natural prolongation of the Channel Islands rather than of the mainland of France. In international law, as the United Kingdom emphasized in the pleadings, the concept of the continental shelf is a juridical concept which connotes the natural prolongation under the sea not of a continent of geographical land mass but of the land territory of each State. And the very fact that in international law the continental shelf is a juridical concept

means that its scope and the conditions for its application are not determined exclusively by the physical facts of geography but also by legal rules. Moreover, it is clear both from the insertion of the "special circumstances" provision in Article 6 and from the emphasis on "equitable principles" in customary law that the force of the cardinal principle of "natural prolongation of territory" is not absolute, but may be subject to qualification in particular situations.

194. The true position, in the opinion of the Court, is that the principle of natural prolongation of territory is neither to be set aside nor treated as absolute in a case where islands belonging to one State are situated on continental shelf which would otherwise constitute a natural prolongation of the territory of another State. The application of that principle in such a case, as in other cases concerning the delimitation of the continental shelf, has to be appreciated in the light of all the relevant geographical and other circumstances. When the question is whether areas of continental shelf, which geologically may be considered a natural prolongation of the territories of two States, appertain to one State rather than to the other, the legal rules constituting the juridical concept of the continental shelf take over and determine the question. Consequently, in these cases the effect to be given to the principle of natural prolongation of the coastal State's land territory is always dependent not only on the particular geographical and other circumstances but also on any relevant considerations of law and equity.

195. The legal rules to be applied in the Channel Islands region, the Court has held, are those of customary international law, rather than of Article 6 of the Convention. Under customary law, the method adopted for delimiting the boundary must, while applying the principle of natural prolongation of territory, also ensure that the resulting delimitation of the boundary accords with equitable principles. In other words, the question is whether the Channel Islands should be given the full benefit of the application of the principle of natural prolongation in the areas to their north and north-west or whether their situation close to the mainland of France requires, on equitable grounds, some modification of the application of the principle in those areas. In the opinion of the Court, the doctrine of the equality of States which, *inter alia*, the French Republic invokes as justifying a curtailment of the continental shelf attributable to the Channel Islands, cannot be considered as constituting such an equitable ground. The doctrine of the equality of States, applied generally to the delimitation of the continental shelf, would have vast implications for the division of the continental shelf among the States of the world, implications which have been rejected by a majority of States and which would involve, on a huge scale, that refashioning of geography repudiated in the *North Sea Continental Shelf* cases. Any ground of equity, the Court considers, is rather to be looked for in the particular circumstances of the present case and in the particular equality of the two States in their geographical relation to the continental shelf of the Channel.

239. As this Court of Arbitration has already pointed out in paragraphs 81-94, the appropriateness of the equidistance or any other method for the purpose of effecting an equitable delimitation in any given case is always a function or reflection of the geographical and other relevant circum-

stances of the particular case. In a situation where the coasts of the two States are opposite each other, the median line will normally effect a broadly equal and equitable delimitation. But this is simply because of the geometrical effects of applying the equidistance principle to an area of continental shelf which, in fact, lies between coasts that, in fact, face each other across that continental shelf. In short, the equitable character of the delimitation results not from the *legal* designation of the situation as one of "opposite" States *but from its actual geographical character as such*. Similarly, in the case of "adjacent" States it is the lateral geographical relation of the two coasts, when combined with a large extension of the continental shelf seawards from those coasts, which makes individual geographical features on either coast more prone to render the geometrical effects of applying the equidistance principle inequitable than in the case of "opposite" States. The greater risk in these cases that the equidistance method may produce an inequitable delimitation thus also results not from the *legal* designation of the situation as one of "adjacent" States but *from its actual geographical character as one involving laterally related coasts.*

240. What is, moreover, evident is that the relevance of the distinction between opposite and adjacent coasts is in regard to the operation of the "special circumstances" element in the "equidistance-special circumstances" rule laid down in Article 6 for both situations. What is also evident in the view of the Court, is that the answer to the question whether the effect of individual geographical features is to render an equidistance delimitation "unjustified" or "inequitable" cannot depend on whether the case is *legally* to be considered a delimitation between "opposite" or between "adjacent" States. The appreciation of the effect of individual geographical features on the course of an equidistance line has necessarily to be made by reference to the actual geographical conditions of the particular area of continental shelf to be delimited and to the actual relation of the two coasts to that particular area.

249. The Court notes that in a large proportion of the delimitations known to it, where a particular geographical feature has influenced the course of a continental shelf boundary, the method of delimitation adopted has been some modification or variant of the equidistance principle rather than its total rejection. In the present instance, the problem also arises precisely from the distorting effect of a geographical feature in circumstances in which the line equidistant from the coasts of the two States would otherwise constitute the appropriate boundary. Consequently, it seems to the Court to be in accord not only with the legal rules governing the continental shelf but also with State practice to seek the solution in a method modifying or varying the equidistance method rather than to have recourse to a wholly different criterion of delimitation. The appropriate method, in the opinion of the Court, is to take account of the Scilly Isles as part of the coastline of the United Kingdom but to give them less than their full effect in applying the equidistance method. Just as it is not the function of equity in the delimitation of the continental shelf completely to refashion geography, so it is also not the function of equity to create a situation of complete equity where nature and geography have established an inequity. Equity does not, therefore,

call for coasts, the relation of which to the continental shelf is not equal, to be treated as having completely equal effects. What equity calls for is an appropriate abatement of the disproportionate effects of a considerable projection on to the Atlantic continental shelf of a somewhat attenuated portion of the coast of the United Kingdom.

250. The abatement of these disproportionate effects, as previously indicated in paragraph 27, does not entail any nice calculations of proportionality in regard to the total areas of continental shelf accruing to the Parties in the Atlantic region. This is because, as pointed out in paragraphs 99-101, the element of "proportionality" in the delimitation of the continental shelf does not relate to the total partition of the area of shelf among the coastal States concerned, its rôle being rather that of a criterion to assess the distorting effects of particular geographical features and the extent of the resulting inequity. In the present instance, "proportionality" comes into account only in appreciating whether the Scilly Isles are to be considered a "special circumstance" having distorting effects on the equidistance boundary as between the French Republic and the United Kingdom and, if so, the extent of the adjustment appropriate to abate the inequity. These questions do not therefore require nice calculations of the areas of continental shelf appertaining to the United Kingdom in the north under a prospective delimitation of its continental shelf boundary with the Irish Republic. The point here at issue is simply whether the geographical situation of the Scilly Isles in relation to the French coast has a distorting effect and is a cause of inequity as between the United Kingdom and the French Republic.

251. A number of examples are to be found in State practice of delimitations in which only partial effect has been given to offshore islands situated outside the territorial sea of the mainland. The method adopted has varied in response to the varying geographical and other circumstances of the particular cases; but in one instance, at least, the method employed was to give half, instead of full, effect to the offshore island in delimiting the equidistance line. The method of giving half effect consists in delimiting the line equidistant between the two coasts, first, without the use of the offshore island as a base-point and, secondly, with its use as a base-point; a boundary giving half-effect to the island is then the line drawn mid-way between those two equidistance lines. This method appears to the Court to be an appropriate and practical method of abating the disproportion and inequity which otherwise result from giving full effect to the Scilly Isles as a base-point for determining the course of the boundary. The distance that the Scilly Isles extend the coastline of the mainland of the United Kingdom westwards onto the Atlantic continental shelf is slightly more than twice the distance that Ushant extends westwards the coastline of the French mainland. The Court, without attributing any special force as a criterion to this ratio of the difference in the distances of the Scillies and Ushant from their respective mainlands, finds in it an indication of the suitability of the half-effect method as a means of arriving at an equitable delimitation in the present case. The function of equity, as previously stated, is not to produce absolute equality of treatment, but an appropriate abatement of the inequitable effects of the distorting geographical feature. In the particular circumstances of the present

case the half-effect method will serve to achieve such an abatement of the inequity. At the same time, the Court notes that the boundary resulting from the use of this method will follow the slight south-westerly trend of the coastlines of the Parties and of the continental shelf in the region.

Maritime Boundary Agreement, (United States-Cuba), December 16, 1977*

* S. Exec. Doc. H. 96th Cong., 1st Sess. (1979).

MARITIME BOUNDARY AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CUBA

Desirous of establishing the maritime boundary between the United States of America and the Republic of Cuba, as a result of the enactment, by the Government of the United States of America, of Public Law No. 94–265 of April 13, 1976, and by the Government of the Republic of Cuba, of Decree—Law No. 2 of February 24, 1977, the two Governments have agreed as follows:

ARTICLE I

The maritime boundary between the United States of America and the Republic of Cuba shall be determined by the geodetic lines connecting the following coordinates:

	Latitude (north)	*Longitude (west)*
1.	23°55′30″	81°12′55″
2.	23°53′50″	81°19′44″
3.	23°50′50″	81°30′00″
4.	23°50′00″	81°40′00″
5.	23°49′03″	81°50′00″
6.	23°49′03″	82°00′12″
7.	23°49′40″	82°10′00″
8.	23°51′12″	82°25′00″
9.	23°51′12″	82°40′00″
10.	23°49′40″	82°48′54″
11.	23°49′30″	82°51′12″
12.	23°49′22″	83°00′00″
13.	23°49′50″	83°15′00″
14.	23°51′20″	83°25′50″
15.	23°52′25″	83°33′02″
16.	23°54′02″	83°41′36″
17.	23°55′45″	83°48′12″
18.	23°58′36″	84°00′00″
19.	24°09′35″	84°29′28″
20.	24°13′18″	84°38′40″
21.	24°16′39″	84°46′08″
22.	24°23′28″	85°00′00″
23.	24°26′35″	85°06′20″
24.	24°38′55″	85°31′55″
25.	24°44′15″	85°43′12″
26.	24°53′55″	86°00′00″
27.	25°12′25″	86°33′12″

ARTICLE II

The geodetic and computational bases used are the Clarke 1866 ellipsoid, the 1927 North American Datum, and the following charts:

Charts published by the National Ocean Survey of the United States of America:

Chart NOS No. 11438, 6th Edition, September 20, 1975;
Chart NOS No. 11439, 13th Edition, June 7, 1975;
Chart NOS No. 11441, 27th Edition, July 24, 1976;
Chart NOS No. 11442, 16th Edition, April 10, 1976;
Chart NOS No. 11445, 15th Edition, July 24, 1976.

Charts published by the Instituto Cubano de Hidrografía of the Republic of Cuba:

Chart ICH No. 15001, 1st Edition, October 1, 1975;
Chart ICH No. 15002, 1st Edition, March 1, 1976;
Chart ICH No. 15003, 1st Edition, September 1, 1975;
Chart ICH No. 15004, 1st Edition, October 1, 1975;
Chart ICH No. 15005, 1st Edition, October 1, 1975;
Chart ICH No. 15006, 1st Edition, May 1, 1975.

ARTICLE III

South of the maritime boundary the United States of America shall not, and north of the maritime boundary the Republic of Cuba shall not, claim or exercise sovereign rights or jurisdiction over the waters or seabed and subsoil.

ARTICLE IV

This Agreement, the sole purpose of which is to establish the location of the maritime boundary between the United States of America and the Republic of Cuba, shall not prejudice or affect the positions of either Party concerning: the nature of the sovereign rights exercised by States; the rules of international law with respect to the exercise of jurisdiction over the waters or seabed and subsoil; or any other matter relating to the law of the sea.

ARTICLE V

This Agreement is subject to ratification in accordance with the respective constitutional procedures of the two States.

The Parties agree to apply the terms of this Agreement provisionally from January 1, 1978, for a period of two years, and it will enter into force permanently on the date of exchange of instruments of ratification.

Done at Washington, December 16, 1977, in English and Spanish, both texts being equally authentic.

For the Government of the United States of America:
For the Government of the Republic of Cuba:

Mark B. Feldman Piñeiro

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Maritime Boundary Agreement (United States-Venezuela), March 28, 1978*

* T.I.A.S. 9890.

MARITIME BOUNDARY TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF VENEZUELA

The Government of the United States of America and the Government of the Republic of Venezuela,

Reaffirming the cordial relations between the two countries,

Conscious of the need to establish a precise and equitable maritime boundary,

Have agreed as follows:

ARTICLE 1

The sole purpose of this Treaty is to establish, in accordance with international law, the maritime boundary between the United States of America and the Republic of Venezuela.

ARTICLE 2

The maritime boundary between the United States of America and Venezuela is determined by the geodetic lines connecting points 1–22, having the following coordinates:

	Latitude (*north*)	*Longitude* (*west*)
1.	16°44′49″	64°01′08″
2.	16°43′22″	64°06′31″
3.	16°43′10″	64°06′59″
4.	16°42′40″	64°08′06″
5.	16°41′43″	64°10′07″
6.	16°35′19″	64°23′39″
7.	16°23′30″	64°45′54″
8.	15°39′31″	65°58′41″
9.	15°30′10″	66°07′09″
10.	15°14′06″	66°19′57″
11.	14°55′48″	66°34′30″
12.	14°56′06″	66°51′40″
13.	14°58′27″	67°04′19″
14.	14°58′45″	67°05′17″
15.	14°58′58″	67°06′11″
16.	14°59′10″	67°07′00″
17.	15°02′32″	67°23′40″
18.	15°05′07″	67°36′23″
19.	15°10′38″	68°03′46″
20.	15°11′06″	68°09′21″
21.	15°12′33″	68°27′32″
22.	15°12′51″	68°28′56″

and along an azimuth of 274.23 degrees true from point 22, in the event that the maritime boundary of the United States of America extends westward, until the trijunction with a third State is reached. In no case shall this trijunction point be further westward than latitude 15°14′28″N longitude 68°51′44″W.

ARTICLE 3

The latitude and longitude of the points described in Article 2 have been determined on the 1927 North American Datum, Clarke 1866 ellipsoid.

The maritime boundary has, for illustrative purposes only, been depicted on nautical chart No. 25000, published by the Hydrographic Center, Defense Mapping Agency, Washington, D.C., Sixth Edition, February 12, 1977, which is annexed to and forms an integral part of this Treaty.

ARTICLE 4

It is understood by the two Governments that south of the maritime boundary the United States of America shall not, and north of the maritime boundary the Republic of Venezuela shall not, for any purpose, claim or exercise sovereign rights or jurisdiction over the waters or seabed and subsoil. The establishment of this maritime boundary does not affect or prejudice in any manner the positions of either Government with respect to the sovereign rights or jurisdiction of either State, the rules of international law concerning the exercise of jurisdiction over the waters or seabed and subsoil, or any other matter relating to the law of the sea.

ARTICLE 5

Any dispute concerning the interpretation or application of the provisions of this Treaty shall be resolved by direct negotiations between the two Governments.

ARTICLE 6

This Treaty is subject to ratification in accordance with the constitutional procedures of the two States, and will enter into force on the date of exchange of instruments of ratification.

Treaty on Maritime Boundaries, (United States-Mexico), May 4, 1978*

* S. Exec. Doc. F, 96th Cong. 1st Sess. (1979).

TREATY ON MARITIME BOUNDARIES BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

The Government of the United States of America and the Government of the United Mexican States:

Considering that the maritime boundaries between the two countries were determined for a distance of twelve nautical miles seaward by the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary Between the United States of America and the United Mexican States, signed on November 23, 1970;

Taking note of the Decree adding to Article 27 of the Political Constitution of the United Mexican States to establish an Exclusive Economic Zone of Mexico outside the Territorial Sea, and of the Fishery Conservation and Management Act of 1976 establishing a fishery conservation zone off the coast of the United States;

Bearing in mind that, by an exchange of notes dated November 24, 1976, they provisionally recognized maritime boundaries between the two countries between twelve and two hundred nautical miles seaward in the Gulf of Mexico and the Pacific Ocean;

Recognizing that the lines accepted by the exchange of notes dated November 24, 1976, are practical and equitable, and

Desirous of avoiding the uncertainties and problems that might arise from the provisional character of the present maritime boundaries between twelve and two hundred nautical miles seaward.

Have agreed as follows:

ARTICLE I

The United States of America and the United Mexican States agree to establish and recognize as their maritime boundaries in the Gulf of Mexico and in the Pacific Ocean, in addition to those established by the Treaty of November 23, 1970, the geodetic lines connecting the points whose coordinates are:

In the Western Gulf of Mexico:

GM. W–1	25°58′30.57″ Lat. N.	96°55′27.37″ Long. W.
GM. W–2	26°00′31.00″ Lat. N.	96°48′29.00″ Long. W.
GM. W–3	26°00′30.00″ Lat. N.	95°39′26.00″ Long. W.
GM. W–4	25°59′48.28″ Lat. N.	93°26′42.19″ Long. W.

In the Eastern Gulf of Mexico:

GM. E–1	25°42′13.05″ Lat. N.	91°05′24.89″ Long. W.
GM. E–2	25°46′52.00″ Lat. N.	90°29′41.00″ Long. W.
GM. E–3	25°41′56.52″ Lat. N.	88°23′05.54″ Long. W.

In the Pacific Ocean:

OP-1	32°35′22.11″ Lat. N.	117°27′49.42″ Long. W.
OP-2	32°37′37.00″ Lat. N.	117°49′31.00″ Long. W.
OP-3	33°07′58.00″ Lat. N.	118°36′18.00″ Long. W.
OP-4	30°32′31.20″ Lat. N.	121°51′58.37″ Long. W.

The coordinates of the geodetic points referred to above were determined with reference to the 1927 North American Datum.

Article II

North of the maritime boundaries established by Article I, the United Mexican States shall not, and south of said boundaries the United States of America shall not, claim or exercise for any purpose sovereign rights or jurisdiction over the waters or seabed and subsoil.

Article III

The sole purpose of this Treaty is to establish the location of the maritime boundaries between the United States of America and the United Mexican States.

The maritime boundaries established by this Treaty shall not affect or prejudice in any manner the positions of either Party with respect to the extent of internal waters of the territorial sea, of the high seas or of sovereign rights or jurisdiction for any other purpose.

Article IV

This Treaty shall be subject to ratification and shall enter into force on the date of exchange of the instruments of ratification which shall take place in Washington, D.C. at the earliest possible date.

Done at Mexico, May 4, 1978, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Cyrus Vance

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES

Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (excerpts), 1982*

* 1982 I.C.J. 18; 21 (Art.I); 36; 43 (36); 45-49 (42, 44-45, 47-50); 59-63 (70, 73, 76-77); 75-78 (103, 106-107); 82-83 (115); 90, and 92-94 (132-133) (Judgement of Feb. 24).

INTERNATIONAL COURT OF JUSTICE

1982
24 February
General List
No. 63

YEAR 1982

24 February 1982

CASE CONCERNING THE CONTINENTAL SHELF

(TUNISIA/LIBYAN ARAB JAMAHIRIYA)

Interpretation of Special Agreement — Sources of law to be applied by the Court — Binding force of Judgment.

Delimitation of continental shelf between adjacent States — Applicable principles and rules of international law — Concept of natural prolongation of the land territory as defining the physical object or location of rights of the coastal State — Role of the concept in delimitation — Effect of geological and geomorphological factors.

Recent trends in the law admitted at the Third United Nations Conference on the Law of the Sea — Articles 76 and 83 of draft convention.

Claim to historic titles justifying (inter alia) *drawing of straight baselines — land frontier and maritime limits.*

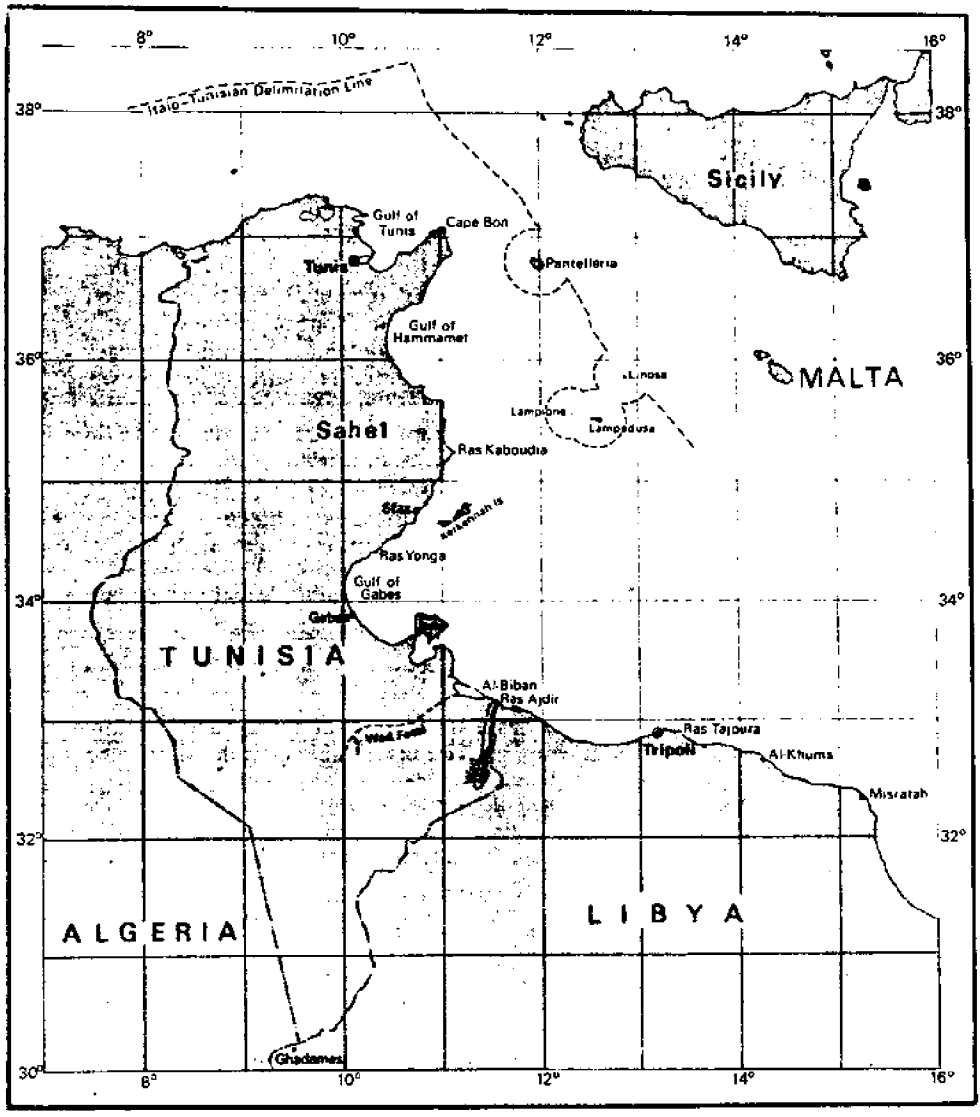
Application of equitable principles with a view to achieving equitable solution — Account to be taken of relevant circumstances — Determination of area relevant for the delimitation — Criterion of proportionality as an aspect of equity.

"Article 1

The Court is requested to render its Judgment in the following matter :

What are the principles and rules of international law which may be applied for the delimitation of the area of the continental shelf appertaining to the Republic of Tunisia and the area of the continental shelf appertaining to the Socialist People's Libyan Arab Jamahiriya and, in rendering its decision, to take account of equitable principles and the relevant circumstances which characterize the area, as well as the recent trends admitted at the Third Conference on the Law of the Sea.

Also, the Court is further requested to specify precisely the practical way in which the aforesaid principles and rules apply in this particular situation so as to enable the experts of the two countries to delimit those areas without any difficulties.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Italo-Tunisian Delimitation Line
Sicily
Gulf of Tunis
Cape Bon
Tunis
Pantelleria
Gulf of Hammamet
MALTA
Sahel
Lampione
Lampedusa
Ras Kaboudia
Kerkennah Is
Ras Yonga
Gulf of Gabes
Gabès
TUNISIA
Al Biban
Ras Ajdir
Ras Tajoura
Tripoli
Al Khums
Misratah
ALGERIA
LIBYA
Ghadames

MAP NO. 1

36. Despite its comparatively recent appearance among the concepts of international law, the concept of the continental shelf, which may be said to date from the Truman Proclamation of 28 September 1945, has become one of the most well known and exhaustively studied, in view of the considerable economic importance of the exploitation activities effected under its aegis. There is therefore no need for the Court to dwell on its nature and development, particularly since, as the Parties themselves have noted, there has proved to be a considerable measure of agreement between them as to the principles and rules of international law which in general fall to be applied to a delimitation of areas of continental shelf appertaining to two adjacent States which (as is the case of Tunisia and Libya) are not parties to the 1958 Geneva Convention on the Continental Shelf. Since however the "principles and rules of international law which may be applied" for the delimitation of continental shelf areas must be derived from the concept of the continental shelf itself, as understood in international law, the Parties themselves found it necessary, in the course of the presentation of their arguments to the Court with a view to defining the rules and principles for the application of which each of them contended, to discuss extensively the concept of the continental shelf. In particular, they both devoted much attention to a consideration which they regarded as not only pertaining to the essence of the continental shelf but also a major criterion for its delimitation, namely the "fundamental concept of the continental shelf as being the natural prolongation of the land domain" (*I.C.J. Reports 1969*, p. 30, para. 40). The Parties are in agreement in the degree of importance they attribute to this concept. The essential issues in dispute between them relate to the manner in which the principles and rules deriving from it should be applied to the particular circumstances of the present case, and to the determination of the factors which have to be taken into account in order to effect the delimitation.

42. It will be recalled that the definition of the continental shelf in Article 1 of the 1958 Convention is as follows :

> "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."

While the 200-metre limit was chosen partly as corresponding approximately to the normal outer limit of the shelf in the physical sense, the definition of the outer limit of the shelf by reference to the possibility of exploitation of the sea-bed is clearly open-ended, and emphasizes the lack of identity between the legal concept of the continental shelf and the physical phenomenon known to geographers by that name. This defini-

tion, which was according to its terms expressed to be for the purpose of a convention text, was considered by the Court in its 1969 Judgment to have been one of those regarded in 1958 as "reflecting, or as crystallizing, received or at least emergent rules of customary law relative to the continental shelf" (*I.C.J. Reports 1969*, p. 39, para. 63). The fact that the legal concept, while it derived from the natural phenomenon, pursued its own development, is implicit in the whole discussion by the Court in that case of the legal rules and principles applicable to it.

44. Both Parties to the present case have in effect based their argument upon the idea that because a delimitation should, in accordance with the Judgment in the *North Sea Continental Shelf* cases, leave to each Party "all those parts of the continental shelf that constitute a natural prolongation of its land territory into and under the sea" (*I.C.J. Reports 1969*, p. 53, para. 101 (C) (1)), therefore the determination of what constitutes such natural prolongation will produce a correct delimitation. The Court in 1969 did not regard an equitable delimitation and a determination of the limits of "natural prolongation" as synonymous, since in the operative clause of its Judgment, just quoted, it referred only to the delimitation being effected in such a way as to leave "as much as possible" to each Party the shelf areas constituting its natural prolongation. The Court also clearly distinguished between a principle which affords the justification for the appurtenance of an area to a State and a rule for determining the extent and limits of such area : "the appurtenance of a given area, considered as an entity, in no way governs the precise delimitation of its boundaries" (*I.C.J. Reports 1969*, p. 32, para. 46). The Court is therefore unable to accept the contention of Libya that "once the natural prolongation of a State is determined, delimitation becomes a simple matter of complying with the dictates of nature". It would be a mistake to suppose that it will in all cases, or even in the majority of them, be possible or appropriate to establish that the natural prolongation of one State extends, in relation to the natural prolongation of another State, just so far and no farther, so that the two prolongations meet along an easily defined line. Nor can the Court approve the argument of Tunisia that the satisfying of equitable principles in a particular geographical situation is just as much a part of the process of the identification of the natural prolongation as the identification of the natural prolongating is necessary to satisfy equitable principles. The satisfaction of equitable principles is, in the delimitation process, of cardinal importance, as the Court will show later in this Judgment, and identification of natural prolongation may, where the geographical circumstances are appropriate, have an important role to play in defining an equitable delimitation, in view of its significance as the justification of continental shelf rights in some cases ; but the two considerations – the satisfying of equitable principles and the identification of the natural prolongation – are not to be placed on a plane of equality.

45. Since the Court gave judgment in the *North Sea Continental Shelf* cases, a period has elapsed during which there has been much State practice in this field of international law, and it has been under very close review, particularly in the context of the Third United Nations Conference on the Law of the Sea. The term "natural prolongation" has now made its appearance in Article 76 of the draft convention on the Law of the Sea. At this point, the Court must thus turn to the question whether principles and rules of international law applicable to the delimitation may be derived from, or may be affected by, the "new accepted trends" which have emerged at the Third United Nations Conference on the Law of the Sea.

47. Article 76 and Article 83 of the draft convention are the provisions of the draft convention prepared by the Conference which may be relevant as incorporating new accepted trends to be taken into account in the present case. According to Article 76, paragraph 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."

Paragraphs 2 to 9 of the Article, which deal with details of the outer limits of the continental shelf, can be disregarded for the purposes of the present Judgment. While paragraph 10 states that the provisions of the Article "are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts", the definition given in paragraph 1 cannot be ignored. That definition consists of two parts, employing different criteria. According to the first part of paragraph 1 the natural prolongation of the land territory is the main criterion. In the second part of the paragraph, the distance of 200 nautical miles is in certain circumstances the basis of the title of a coastal State. The legal concept of the continental shelf as based on the "species of platform" has thus been modified by this criterion. The definition in Article 76, paragraph 1, also discards the exploitability test which is an element in the definition of the Geneva Convention of 1958.

48. The principle that the natural prolongation of the coastal State is a basis of its legal title to continental shelf rights does not in the present case, as explained above, necessarily provide criteria applicable to the delimitation of the areas appertaining to adjacent States. In so far as Article 76, paragraph 1, of the draft convention repeats this principle, it introduces no new element and does not therefore call for further consideration. In so far however as the paragraph provides that in certain circumstances the distance from the baseline, measured on the surface of the sea, is the basis for

the title of the coastal State, it departs from the principle that natural prolongation is the sole basis of the title. The question therefore arises whether the concept of the continental shelf as contained in the second part of the definition is relevant to the decision of the present case. It is only the legal basis of the title to continental shelf rights – the mere distance from the coast – which can be taken into account as possibly having consequences for the claims of the Parties. Both Parties rely on the principle of natural prolongation : they have not advanced any argument based on the "trend" towards the distance principle. The definition in Article 76, paragraph 1, therefore affords no criterion for delimitation in the present case.

*

49. With regard to the delimitation of the continental shelf between States with opposite or adjacent coasts, Article 83, paragraph 1, of the Informal Composite Negotiating Text of the Third United Nations Conference on the Law of the Sea (A/CONF.62/WP.10/Rev.2) provided that :

> "The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement in conformity with international law. Such an agreement shall be in accordance with equitable principles, employing the median or equidistance line, where appropriate, and taking account of all circumstances prevailing in the area concerned."

But, on 28 August 1981, the President of the Conference presented to the Conference in Geneva the following proposal to replace Article 83, paragraph 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."

In accordance with the decision taken by the Conference, this proposal has now acquired the status of part of the official draft convention before the Conference.

50. In the new text, any indication of a specific criterion which could give guidance to the interested States in their effort to achieve an equitable solution has been excluded. Emphasis is placed on the equitable solution which has to be achieved. The principles and rules applicable to the delimitation of continental shelf areas are those which are appropriate to bring about an equitable result ; this is a matter which the Court will have to consider further at a later stage. For the present, the Court notes that the new text does not affect the role of the concept of natural prolongation in this domain.

70. Since the Court considers that it is bound to decide the case on the basis of equitable principles, it must first examine what such principles entail, divorced from the concept of natural prolongation which has been found not to be applied for purposes of delimitation in this case. The result of the application of equitable principles must be equitable. This terminology, which is generally used, is not entirely satisfactory because it employs the term equitable to characterize both the result to be achieved and the means to be applied to reach this result. It is, however, the result which is predominant ; the principles are subordinate to the goal. The equitableness of a principle must be assessed in the light of its usefulness for the purpose of arriving at an equitable result. It is not every such principle which is in itself equitable ; it may acquire this quality by reference to the equitableness of the solution. The principles to be indicated by the Court have to be selected according to their appropriateness for reaching an equitable result. From this consideration it follows that the term "equitable principles" cannot be interpreted in the abstract ; it refers back to the principles and rules which may be appropriate in order to achieve an equitable result. This was the view of the Court when it said, in its Judgment of 1969 :

> "it is a truism to say that the determination must be equitable, rather is the problem above all one of defining the means whereby the delimitation can be carried out in such a way as to be recognized as equitable" (*I.C.J. Reports 1969,* p. 50, para. 92).

73. It should first be recalled that exclusive rights over submarine areas belong to the coastal State. The geographic correlation between coast and submerged areas off the coast is the basis of the coastal State's legal title. As the Court explained in the *North Sea Continental Shelf* cases the continental shelf is a legal concept in which "the principle is applied that the land dominates the sea" (*I.C.J. Reports 1969,* p. 51, para. 96). In the *Aegean Sea Continental Shelf* case the Court emphasized that

> "it is solely by virtue of the coastal State's sovereignty over the land that rights of exploration and exploitation in the continental shelf can attach to it, *ipso jure,* under international law. In short, continental shelf rights are legally both an emanation from and an automatic adjunct of the territorial sovereignty of the coastal State." (*I.C.J. Reports 1978,* p. 36, para. 86.)

As has been explained in connection with the concept of natural prolongation, the coast of the territory of the State is the decisive factor for title to submarine areas adjacent to it. Adjacency of the sea-bed to the territory of the coastal State has been the paramount criterion for determining the legal status of the submerged areas, as distinct from their delimitation,

without regard to the various elements which have become significant for the extension of these areas in the process of the legal evolution of the rules of international law.

76. Both Parties have of course included among the elements which, they submit, should be taken into account as "relevant circumstances which characterize the area", the factor which was referred to in the Court's Judgment in the *North Sea Continental Shelf* cases as " the general configuration of the coasts of the Parties, as well as the presence of any special or unusual features" (*I.C.J. Reports 1969*, p. 54, para. 101 (D) (1)). In its submissions, Tunisia has specified as some of the relevant circumstances the presence of islands, islets and low-tide elevations forming part of the eastern coastal front of Tunisia ; the manifestation in the bathymetric curves in the area of the physical and geological structure of the region ; the potential cut-off effect for Tunisia which could result from the particular angulation of the Tuniso-Libyan littoral in combination with the position on the coast of the frontier point ; the irregularities characterizing the Tunisian coasts, as compared with the general regularity of the Libyan coasts in the relevant area ; the situation of Tunisia, opposite States whose coasts are relatively close to its own, and the effects of any actual or prospective delimitation carried out with those States. In its pleadings, Tunisia has also mentioned as relevant its claimed historic rights and claimed that in appropriate cases economic and historical particularities as well as geological and geographical factors may be included as relevant circumstances. The question of the "cut-off effect" arises only in the context of the application of a geometrical delimitation method, such as that of equidistance, whereby the delimitation line is directly governed by points on the coasts concerned, or in relation to a line drawn from the frontier point on the basis of a predetermined direction, such as the northward line contended for by Libya. Since that line has not been upheld by the Court, and the equidistance method is, as will be explained, also not applicable in this case, the "cut-off effect" is not here a relevant circumstance.

77. On the other hand, Libya's conception of the relevant circumstances is stated in more restricted terms : those circumstances are primarily twofold, namely the geological structure of the shelf and its relation to the adjoining landmass, and the geographic configuration of the coasts. During the oral proceedings counsel for Libya also mentioned a number of particularly relevant circumstances or factors, divided into six categories : the fact that the two States are adjacent, separated by a generally north-south land frontier ; the fact that the shelf area is continuous, with an essentially homogeneous character ; the general configuration of the coasts of the Parties ; the existence of segments of coasts which are not relevant ; and, as a related factor, the existence of actual or prospective delimitations with third States in the region ; the existence of a number of

legislative acts by both Parties, relating to fishing, the territorial sea, and petroleum concessions ; and the existence of petroleum fields or wells within the relevant area.

103. The Parties are, as noted earlier in this Judgment (paragraph 36), in agreement as to the need to take into account

> "the element of a reasonable degree of proportionality, which a delimitation carried out in accordance with equitable principles ought to bring about between the extent of the continental shelf areas appertaining to the coastal State and the length of its coast measured in the general direction of the coastline" (*I.C.J. Reports 1969,* p. 54, para. 101 (D) (3)),

and the Court considers that that element is indeed required by the fundamental principle of ensuring an equitable delimitation between the States concerned. The differences between the Parties are as to which coasts should be taken into account, and whether or not the whole areas of sea-bed below low-water mark are to be compared. As far as the coasts are concerned, the finding of the Court is set out in paragraphs 74-75 above ; there remains the question of the sea-bed areas. It is clear that in the circumstances of many, if not most, delimitations between adjacent States, the assessment of proportionality will produce results which are hardly different, whether the areas of sea-bed beneath territorial and internal waters are included or omitted from consideration. If both States claim territorial waters of the same breadth, around coasts of generally similar configuration, and calculated from baselines determined on the same general basis, then the relative proportions to each other of the areas of continental shelf *stricto sensu* appertaining to each State are likely to be broadly the same as the relative proportions of the sea-bed areas comprising both the continental shelf and the bed of the territorial sea and internal waters. For this reason, the Court does not consider that any general rule of law exists which requires the test of proportionality always to be applied by adopting one of the two methods. In a case such as the present one in which the two calculations would produce different results, it is the relevant circumstances of the area which will afford the basis for determining whether it is the comparison between the more restricted, or between the more extensive, areas that will determine whether the result is equitable.

106. In their pleadings, as well as in their oral arguments, both Parties appear to have set so much store by economic factors in the delimitation process that the Court considers it necessary here to comment on the subject. Tunisia seems to have invoked economic considerations in two ways : firstly, by drawing attention to its relative poverty vis-à-vis Libya in terms of absence of natural resources like agriculture and minerals, compared with the relative abundance in Libya, especially of oil and gas wealth as well as agricultural resources ; secondly, by pointing out that fishing

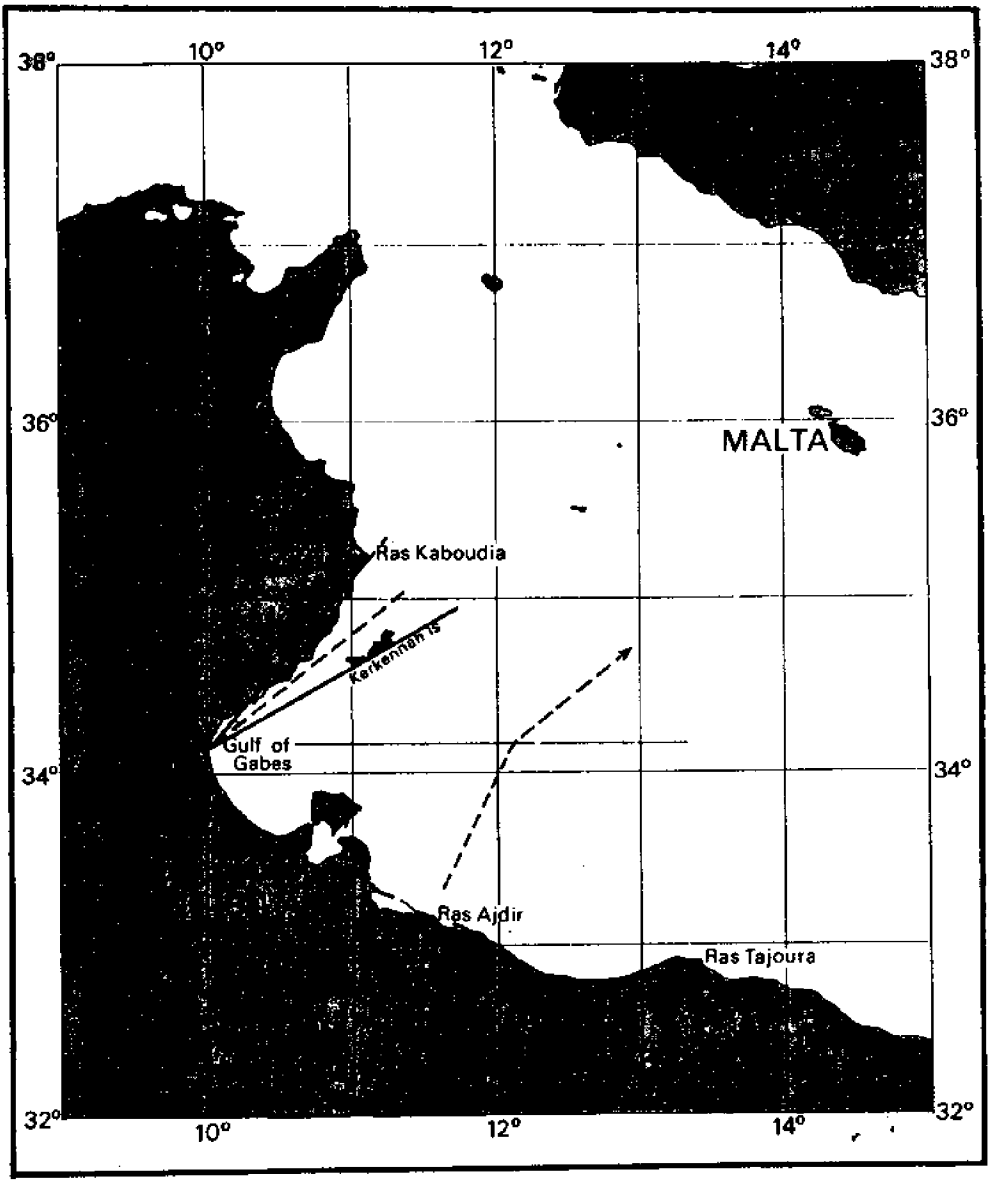
resources derived from its claimed "historic rights" and "historic waters" areas must necessarily be taken into account as supplementing its national economy in eking out its survival as a country. For its part, Libya strenuously argues that, in view of its invocation of geology as an indispensable attribute of its view of "natural prolongation", the presence or absence of oil or gas in the oil-wells in the continental shelf areas appertaining to either Party should play an important part in the delimitation process. Otherwise, Libya dismisses as irrelevant Tunisia's argument in favour of economic poverty as a factor of delimitation on any other grounds.

107. The Court is, however, of the view that these economic considerations cannot be taken into account for the delimitation of the continental shelf areas appertaining to each Party. They are virtually extraneous factors since they are variables which unpredictable national fortune or calamity, as the case may be, might at any time cause to tilt the scale one way or the other. A country might be poor today and become rich tomorrow as a result of an event such as the discovery of a valuable economic resource. As to the presence of oil-wells in an area to be delimited, it may, depending on the facts, be an element to be taken into account in the process of weighing all relevant factors to achieve an equitable result.

115. The considerations which dictate this difference of treatment of the two sectors of continental shelf for the purposes of delimitation are intimately related to the varying influences of the individual circumstances characterizing the area, and will be considered below. However, it should be noted at the outset that the extent of the area to be delimited is such that the terminal point to seaward of the delimitation line (which, for reasons explained in paragraph 75 above, cannot be determined with any precision by the Court) will be at a considerable distance from the nearest point on the coasts of the two Parties and from the frontier point of Ras Ajdir. Where the delimitation to be effected is upon such a scale as this, the use of any one method of delimitation which may seem appropriate, in the light of relevant circumstances, close to the shores of the States concerned, may well suffer from the defect noted in 1969 with respect to the equidistance method, that the distorting effects of certain factors on the course of the line

> "under certain conditions of coastal figuration are . . . comparatively small within the limits of territorial waters, but produce their maximum effect in the localities where the main continental shelf areas lie further out" (*I.C.J. Reports 1969*, p. 37, para. 59),

and "the further from the coastline the area to be delimited, the more unreasonable are the results produced" (*ibid.*, p. 49, para. 89 *(a)*). In such a situation, a possible means (though not the only one) of avoiding an inequitable result is to employ one method of delimitation up to a given



MAP NO. 3

For illustrative purposes only, and without prejudice to the role of the experts in determining the delimitation line with exactness

distance from the coasts, and thenceforth to employ a different method. In the view of the Court, the situation in the present case calls for an approach of this kind. Since the determination of the appropriate point at which one method of delimitation should supplement another is closely bound up, not only with such circumstances as changes in coastal configurations, but also with the practical effect of the method chosen for determination of the initial sector, the Court will first indicate the method it finds to be applicable for the delimitation of the region closer to the coasts before examining the question of the changeover point.

132. Delimitation is the immediate concern of the Court, in respect of which the Special Agreement between the Parties requests it to lay down the applicable principles and rules of international law and the method for their application to the delimitation in the present case. Accordingly, this Judgment has concerned itself with other questions relating to the general legal régime of the continental shelf such as the Tunisian claim to "historic rights" and "fishing zones" only in so far as the Court has found it necessary to do so for the purpose of that delimitation. In doing so, the Court has recalled the historic evolution of the concept of continental shelf, from its inception in the Truman Proclamation of 28 September 1945, through the Geneva Convention of 1958, through the *North Sea Continental Shelf* cases and subsequent jurisprudence, up to the draft convention of the Third Law of the Sea Conference, and its evolution in State practice, and the Court has endorsed and developed those general principles and rules which have thus been established. Clearly each continental shelf case in dispute should be considered and judged on its own merits, having regard to its peculiar circumstances ; therefore, no attempt should be made here to overconceptualize the application of the principles and rules relating to the continental shelf.

* * *

133. For these reasons,

THE COURT,

by ten votes to four,

finds that :

A. The principles and rules of international law applicable for the delimitation, to be effected by agreement in implementation of the present Judgment, of the areas of continental shelf appertaining to the Republic of Tunisia and the Socialist People's Libyan Arab Jamahiriya respectively, in the area of the Pelagian Block in dispute between them as defined in paragraph B, subparagraph (1), below, are as follows :

(1) the delimitation is to be effected in accordance with equitable principles, and taking account of all relevant circumstances ;
(2) the area relevant for the delimitation constitutes a single continental shelf as the natural prolongation of the land territory of both Parties, so that in the present case, no criterion for delimitation of shelf areas can be derived from the principle of natural prolongation as such ;

(3) in the particular geographical circumstances of the present case, the physical structure of the continental shelf areas is not such as to determine an equitable line of delimitation.

B. The relevant circumstances referred to in paragraph A, subparagraph (1), above, to be taken into account in achieving an equitable delimitation include the following :

(1) the fact that the area relevant to the delimitation in the present case is bounded by the Tunisian coast from Ras Ajdir to Ras Kaboudia and the Libyan coast from Ras Ajdir to Ras Tajoura and by the parallel of latitude passing through Ras Kaboudia and the meridian passing through Ras Tajoura, the rights of third States being reserved ;
(2) the general configuration of the coasts of the Parties, and in particular the marked change in direction of the Tunisian coastline between Ras Ajdir and Ras Kaboudia ;
(3) the existence and position of the Kerkennah Islands ;
(4) the land frontier between the Parties, and their conduct prior to 1974 in the grant of petroleum concessions, resulting in the employment of a line seawards from Ras Ajdir at an angle of approximately 26° east of the meridian, which line corresponds to the line perpendicular to the coast at the frontier point which had in the past been observed as a *de facto* maritime limit ;
(5) the element of a reasonable degree of proportionality, which a delimitation carried out in accordance with equitable principles ought to bring about between the extent of the continental shelf areas appertaining to the coastal State and the length of the relevant part of its coast, measured in the general direction of the coastlines, account being taken for this purpose of the effects, actual or prospective, of any other continental shelf delimitation between States in the same region.

C. The practical method for the application of the aforesaid principles and rules of international law in the particular situation of the present case is the following :

(1) the taking into account of the relevant circumstances which characterize the area defined in paragraph B, subparagraph (1), above, including its extent, calls for it to be treated, for the purpose of its delimitation between the Parties to the present case, as made up of two sectors, each requiring the application of a specific method of delimitation in order to achieve an overall equitable solution ;

(2) in the first sector, namely in the sector closer to the coast of the Parties, the starting point for the line of delimitation is the point where the outer limit of the territorial sea of the Parties is intersected by a straight line drawn from the land frontier point of Ras Ajdir through the point 33° 55′ N, 12° E, which line runs at a bearing of approximately 26° east of north, corresponding to the angle followed by the north-western boundary of Libyan petroleum concessions numbers NC 76, 137, NC 41 and NC 53, which was aligned on the south-eastern boundary of Tunisian petroleum concession "Permis complémentaire offshore du Golfe de Gabès" (21 October 1966) ; from the intersection point so determined, the line of delimitation between the two continental shelves is to run north-east through the point 33° 55′ N, 12° E, thus on that same bearing, to the point of intersection with the parallel passing through the most westerly point of the Tunisian coastline between Ras Kaboudia and Ras Ajdir, that is to say, the most westerly point on the shoreline (low-water mark) of the Gulf of Gabes ;

(3) in the second sector, namely in the area which extends seawards beyond the parallel of the most westerly point of the Gulf of Gabes, the line of delimitation of the two continental shelves is to veer to the east in such a way as to take account of the Kerkennah Islands ; that is to say, the delimitation line is to run parallel to a line drawn from the most westerly point of the Gulf of Gabes bisecting the angle formed by a line from that point to Ras Kaboudia and a line drawn from that same point along the seaward coast of the Kerkennah Islands, the bearing of the delimitation line parallel to such bisector being 52° to the meridian ; the extension of this line northeastwards is a matter falling outside the jurisdiction of the Court in the present case, as it will depend on the delimitation to be agreed with third States.

IN FAVOUR : *Acting President* Elias ; *Judges* Lachs, Morozov, Nagendra Singh, Mosler, Ago, Sette-Camara, El-Khani, Schwebel and *Judge* ad hoc Jiménez de Aréchaga ;

AGAINST : *Judges* Forster, Gros, Oda and *Judge* ad hoc Evensen.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-fourth day of February, one thousand nine hundred and eighty-two, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of Tunisia and to the Government of the Socialist People's Libyan Arab Jamahiriya, respectively.

* * *

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Can./U.S.) (excerpts), 1984*

* 1984 I.C.J. 246-247; 253 (Art. II); 266-267 (24-27); 269; 277-278 (58-59); 285; 290 (80-82); 292-294 (89-95); 299-300 (111-112, 114); 312-315 (155-162); 326-327 (191-192,195); 329-330 (201-203); 332-333 (212); 339-342 (230-235, 237); and
346 (Judgement of Oct. 12).

INTERNATIONAL COURT OF JUSTICE

YEAR 1984

1984
12 October
General List
No. 67

12 October 1984

CASE CONCERNING DELIMITATION OF THE MARITIME BOUNDARY IN THE GULF OF MAINE AREA

(CANADA/UNITED STATES OF AMERICA)

Special Agreement between Canada and the United States of America requesting a chamber of the Court to draw, in the Gulf of Maine area, a single line to delimit both the continental shelf and the 200-mile exclusive fishery zone — Delimitation between a predefined point and a predefined area — Jurisdiction of the Chamber.

Delimitation area — Zone between the coasts of the Gulf and outer zone — Local physical and political geography — Rejection of the distinction between primary and secondary coasts — Unity and continuity of the continental shelf — Superjacent water mass and distribution of its fishery resources — Arguments of the Parties concerning human and economic geography.

Origins and development of the dispute — Issue by the Parties of permits for petrol and gas exploration — Divergences apparent in the correspondence between the authorities of the two Governments with regard to the continental shelf — Creation by both States of a 200-mile exclusive fishery zone — Extension of the dispute to this zone — Interim fisheries agreements and unilateral delimitation proposals.

Rules and principles of international law governing the matter — Treaty rules and rules of customary international law — 1958 Convention on the Continental Shelf — Enunciation of a fundamental principle of law and simultaneous prescription of a technical method to be applied to the delimitation in certain circumstances — Basic rule supplied by customary international law and contribution of international jurisprudence to its formation — Convention adopted in 1982 by the Third United Nations Conference on the Law of the Sea — Fundamental norm recognized by the Parties — Redefinition of such norm — Absence in international law of a body of detailed rules concerning the delimitation of the maritime projections of adjacent States.

Equitable criteria and practical methods applicable to the delimitation — Method defined by Article 6, paragraphs 1 and 2, of the 1958 Convention on the Continental

Shelf in force between the Parties — Equitable criterion underlying this method — Application of the method of Article 6 mandatory if the only question were delimitation of the continental shelf — Need in the present case to delimit both the continental shelf and the superjacent water mass — Rejection of the argument that application of the method of Article 6 should be mandatory for any maritime delimitation as particular expression of a general norm of customary international law — Rejection of the argument that the method in question is obligatory in the present case by acquiescence or estoppel — Equitable criteria which could be applied and practical methods which could be used — Selection according to the specific requirements of the case — Application of criteria and methods based primarily on geography.

Examination of the proposed delimitation lines successively put forward by the Parties.

Criteria and methods adopted by the Chamber — Single delimitation line drawn accordingly — Construction of such line in three segments.

Verification of the equitable character of the result — Non-existence in the present case of any real danger of inequitable consequences — Need for co-operation between the Parties.

Article II

1. The Chamber is requested to decide, in accordance with the principles and rules of international law applicable in the matter as between the Parties, the following question :

> What is the course of the single maritime boundary that divides the continental shelf and fisheries zones of Canada and the United States of America from a point in latitude 44° 11′ 12″ N, longitude 67° 16′ 46″ W to a point to be determined by the Chamber within an area bounded by straight lines connecting the following sets of geographic coordinates : latitude 40° N, longitude 67° W ; latitude 40° N, longitude 65° W ; latitude 42° N, longitude 65° W ?

2. The Chamber is requested to describe the course of the maritime boundary in terms of geodetic lines, connecting geographic coordinates of points. The Chamber is also requested, for illustrative purposes only, to depict the course of the boundary on Canadian Hydrographic Service Chart No. 4003 and United States National Ocean Survey Chart No. 13006, in accordance with Article IV.

3. The Parties shall request the Chamber to appoint a technical expert nominated jointly by the Parties to assist it in respect of technical matters and, in particular, in preparing the description of the maritime boundary and the charts referred to in paragraph 2. The Registrar is requested to provide the expert with copies of each Party's pleadings when such pleadings are communicated to the other Party. The expert shall be present at the oral proceedings and shall be available for such consultations with the Chamber as it may deem necessary for the purposes of this Article.

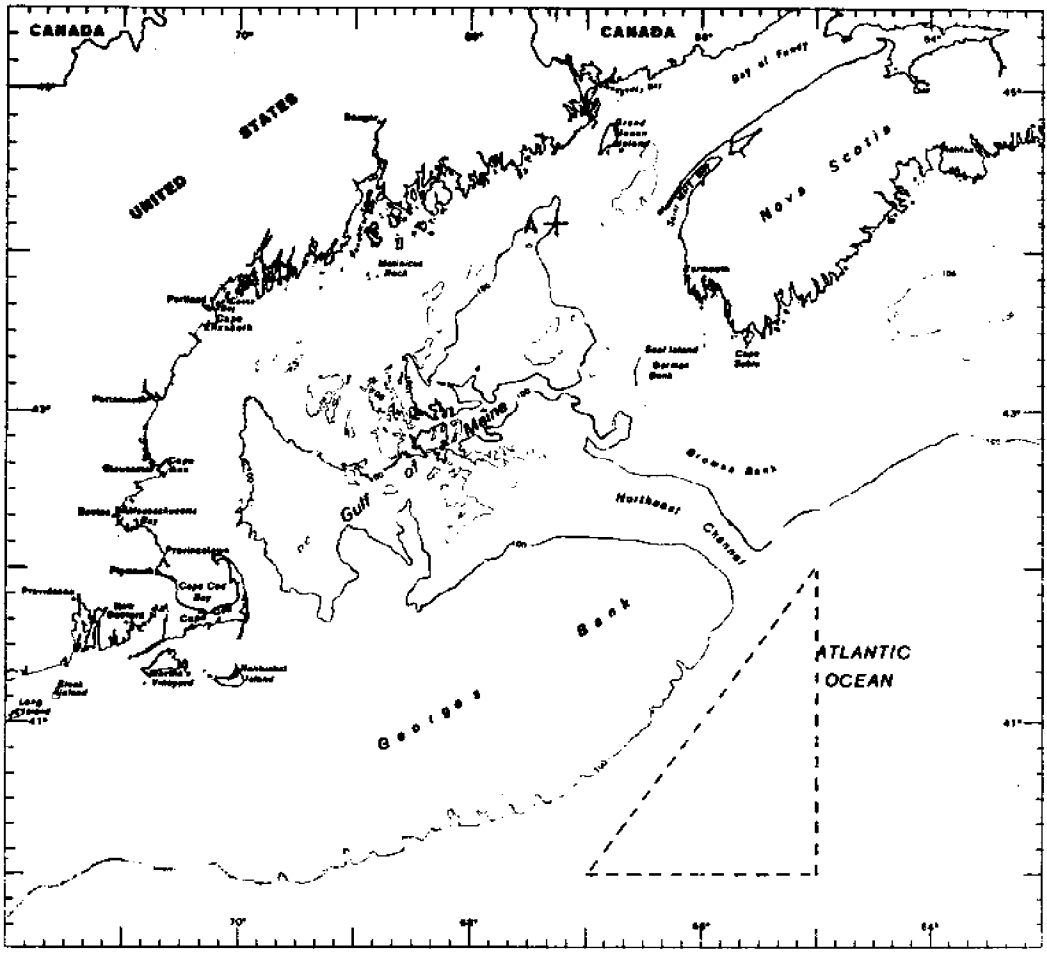
4. The Parties shall accept as final and binding upon them the decision of the Chamber rendered pursuant to this Article.

24. There is a profound difference, in two important respects, between the requests submitted by the Parties in the cases previously brought before the Court, namely those relating to the delimitation of the *North Sea Continental Shelf* and the delimitation of the *Continental Shelf (Tunisia/ Libyan Arab Jamahiriya),* and the request currently submitted to the judgment of the Chamber and relating to the delimitation to be effected in the Gulf of Maine area.

25. To begin with, in the other cases just mentioned, the Court was not required to draw a line of delimitation itself, but merely to undertake a task preliminary to the determination of such a line, i.e., to indicate the principles and rules of international law applicable to that delimitation, to which, in the *Tunisia/ Libya* case, was added the request that the Court should clarify the practical method for the application of these principles and rules in the specific situation. The Parties had reserved for themselves the final task, namely the determination of the delimitation line, to be undertaken jointly and on the binding basis of the indications received from the Court. However, in the present case, this task is directly entrusted to the Chamber, without any indication being given in the Special Agreement as to the sources from which it should derive its determination of applicable principles and methods. Seen from this first aspect, the request submitted to the Chamber is analogous rather to the request made to the Court of Arbitration which was asked to draw the delimitation line of the continental shelf between France and the United Kingdom.

26. The second aspect which distinguishes this case from all those previously adjudicated is the fact that, for the first time, the delimitation which the Chamber is asked to effect does not relate exclusively to the continental shelf, but to both the continental shelf and the exclusive fishing zone, the delimitation to be by a single boundary. Moreover, during the oral proceedings, the Parties added – by reference to Article III, paragraph 1, of the Special Agreement – that the single boundary line to be drawn should be applicable to all aspects of the jurisdiction of the coastal State, not only jurisdiction as defined by international law in its present state, but also as it will be defined in future. In order to determine this single boundary, the Chamber is only asked to decide "in accordance with the principles and rules of international law applicable in the matter as between the Parties", without there being any additional indication, whether of a formal or substantial character, given in the text of the Special Agreement with regard to these "rules and principles".

27. With regard to this second aspect, the Chamber must observe that the Parties have simply taken it for granted that it would be possible, both legally and materially, to draw a single boundary for two different jurisdictions. They have not put forward any arguments in support of this assumption. The Chamber, for its part, is of the opinion that there is certainly no rule of international law to the contrary, and, in the present case, there is no material impossibility in drawing a boundary of this kind.



MAP NO. 1

GENERAL MAP OF THE REGION, SHOWING THE STARTING-POINT FOR THE DELIMITATION LINE AND THE AREA FOR ITS TERMINATION

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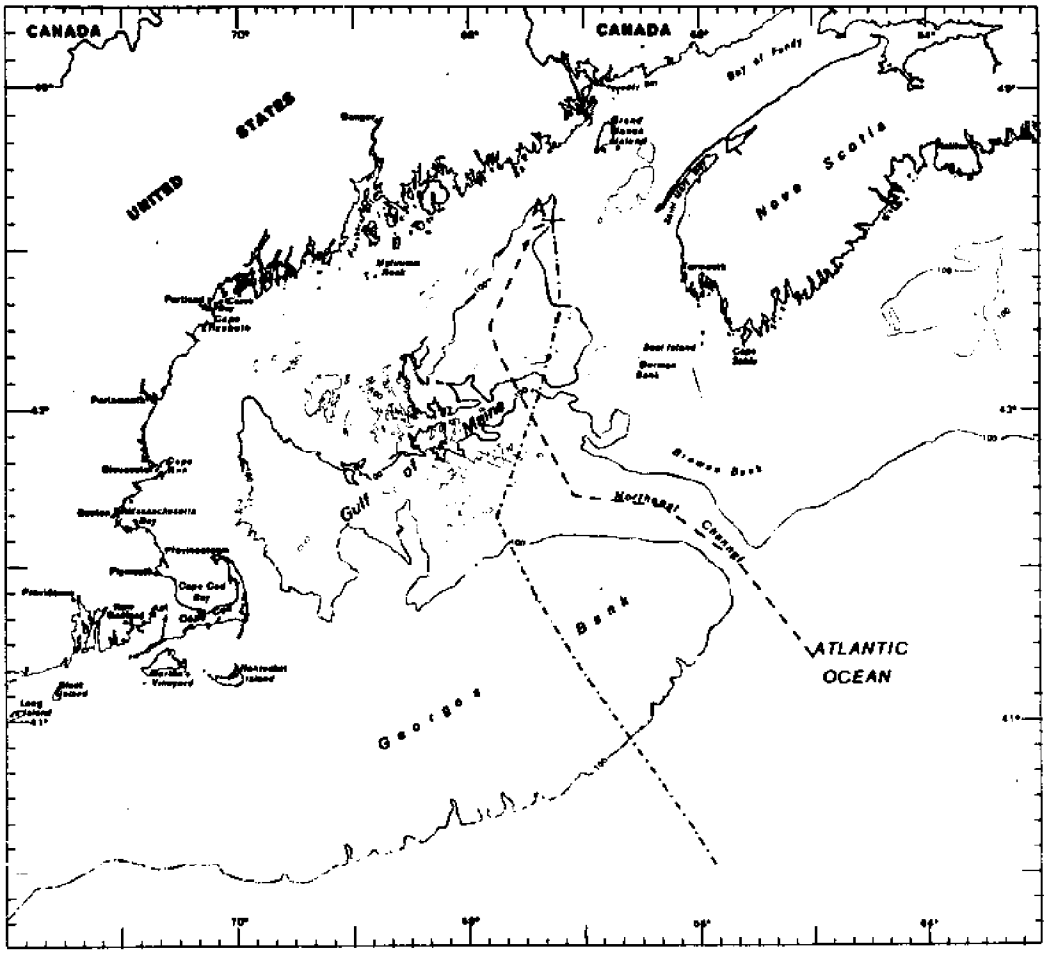
The maps incorporated in the present Judgment were prepared on the basis of documents submitted to the Court by the Parties, and their sole purpose is to provide a visual illustration of the relevant paragraphs of the Judgment.

There can thus be no doubt that the Chamber can carry out the operation requested of it.

58. The Parties did take this course ; they even dealt with those aspects *in extenso*. They exchanged lengthy argument on whether the fishermen of one nationality or the other were first on the scene in the waters of the area. They argued over the importance of the catches of the fisheries, particularly those of Georges Bank, for the port activity, ship-building, food industry and dependent industries of the land areas around the Gulf of Maine, and of the neighbouring areas. They also argued as to their role for the food supplies of their populations and for their exports. Comparative analyses were made of the respective importance of the resources drawn from those fisheries for what was called the one-dimensional economy of Lunenburg County and for the diversified, urbanized economy of Massachusetts. On either side, statistics, tables and graphics were produced in this connection. On one side, gloomy predictions were put forward regarding the consequences for the Nova Scotian economy of exclusion of Canadian fishermen from the Georges Bank fisheries ; the other side emphasized the deleterious effect on the conservation of the Bank's fish stocks that would result from failure to ensure a system of single-State management. The Chamber is bound to point out that the Parties sometimes gave the impression of over-emphasizing these prospects, for it must not be forgotten that the institution by these two North American States of a 200-mile exclusive fishery zone only dates back eight years, and that previously in that zone, which at the time was still high seas, American and Canadian fishing boats plied their trade alongside large high-sea fishing fleets from distant countries. And the eviction of the latter – the justification given for which was the need to avoid the over-fishing to which their presence contributed – was carried out without apparent concern for the repercussions on certain coastal areas and industries of the countries in question.

59. However, the crux of the matter lies elsewhere. It should be emphasized that these fishing aspects, and others relating to activities in the fields of oil exploration, scientific research, or common defence arrangements, may require an examination of valid considerations of a political and economic character. The Chamber is however bound by its Statute, and required by the Parties, not to take a decision *ex aequo et bono*, but to achieve a result on the basis of law. The Chamber is, furthermore, convinced that for the purposes of such a delimitation operation as is here required, international law, as will be shown below, does no more than lay down in general that equitable criteria are to be applied, criteria which are not spelled out but which are essentially to be determined in relation to what may be properly called the geographical features of the area. It will only be when the Chamber has, on the basis of these criteria, envisaged the drawing of a delimitation line, that it may and should – still in conformity with a rule of law – bring in other criteria which may also be taken into account in order to be sure of reaching an equitable result.



MAP NO. 2

LIMITS OF FISHERY ZONES AND CONTINENTAL SHELF CLAIMED BY THE PARTIES, AT 1 MARCH 1977

(see paragraphs 68-70)

United States line - - - - - - -

Canadian line - - - - - - -

80. One preliminary remark is necessary before we come to the essence of the matter, since it seems above all essential to stress the distinction to be drawn between what are principles and rules of international law governing the matter and what could be better described as the various equitable criteria and practical methods that may be used to ensure *in concreto* that a particular situation is dealt with in accordance with the principles and rules in question.

81. In a matter of this kind, international law – and in this respect the Chamber has logically to refer primarily to customary international law – can of its nature only provide a few basic legal principles, which lay down guidelines to be followed with a view to an essential objective. It cannot also be expected to specify the equitable criteria to be applied or the practical, often technical, methods to be used for attaining that objective – which remain simply criteria and methods even where they are also, in a different sense, called "principles". Although the practice is still rather sparse, owing to the relative newness of the question, it too is there to demonstrate that each specific case is, in the final analysis, different from all the others, that it is monotypic and that, more often than not, the most appropriate criteria, and the method or combination of methods most likely to yield a result consonant with what the law indicates, can only be determined in relation to each particular case and its specific characteristics. This precludes the possibility of those conditions arising which are necessary for the formation of principles and rules of customary law giving specific provisions for subjects like those just mentioned.

82. The same may not, however, be true of international treaty law. There is, for instance, nothing to prevent the parties to a convention – whether bilateral or multilateral – from extending the rules contained in that convention to aspects which it is less likely that customary international law might govern. In that event, however, the text of the convention must be read with caution. The first thing to remember in examining the text, and sometimes even a single clause, is the distinction, the importance of which has just been indicated, between principles and rules of international law enunciated in the convention and criteria and methods for whose application it might provide in particular circumstances.

89. With regard solely, for the present, to the problem arising at this stage, that is to say that of ascertaining the principles and rules of international law applicable to maritime delimitation, the inevitable conclusion, which is definite, yet simple, is that the Convention clearly affirms a principle the substance and implications of which have already been stated in paragraph 87 above : the principle, in brief, that any delimitation must be effected by agreement between the States concerned, either by the conclusion of a direct agreement or, if need be, by some alternative method, which must, however, be based on consent. To this one might conceivably add – although the 1958 Convention does not mention the idea, so that it entails going a little far in interpreting the text – that a rule

which may be regarded as logically underlying the principle just stated is that any agreement or other equivalent solution should involve the application of equitable criteria, namely criteria derived from equity which – whether they be designated "principles" or "criteria", the latter term being preferred by the Chamber for reasons of clarity – are not in themselves principles and rules of international law.

90. In contrast, the principle of international law – that delimitation must be effected by agreement – which, as the Chamber has noted above, is expressed in Article 6 of the 1958 Convention, and additionally, it may be thought, the implicit rule it enshrines, are principles already clearly affirmed by customary international law, principles which, for that reason, are undoubtedly of general application, valid for all States and in relation to all kinds of maritime delimitation.

91. Following this review of the implications for the present problem of the endeavour made in 1958 to codify the subject, it will now be appropriate to consider the bearing on the same problem of the Court's Judgment of 20 February 1969 in the *North Sea Continental Shelf* cases. That Judgment, while well known to have attributed more marked importance to the link between the legal institution of the continental shelf and the physical fact of the natural prolongation than has subsequently been given to it, is nonetheless the judicial decision which has made the greatest contribution to the formation of customary law in this field. From this point of view, its achievements remain unchallenged. Rehearsing the historical development of general international law on the subject, that Judgment begins by considering the Truman Proclamation of 28 September 1945, which stated that, for the United States and its neighbours, the delimitation of lateral boundaries between the continental shelves of adjacent States should be decided by mutual agreement and "in accordance with equitable principles". "These two concepts" the Court noted, "have underlain all the subsequent history of the subject" (*I.C.J. Reports 1969*, p. 33, para. 47). Turning to the work of the International Law Commission, the 1969 Judgment notes that, according to the Commission, concepts such as that of proximity and its corollaries, and other alleged principles variously advanced, do not comprise mandatory rules of international law. After this the Judgment restates and endorses the dual principle "that delimitation must be the object of agreement between the States concerned, and that such agreement must be arrived at in accordance with equitable principles" (*ibid.*, p. 46, para. 85). From this it deduces the dual obligation for these States to "enter into negotiations with a view to arriving at an agreement" and to "act in such a way that, in the particular case, and taking all the circumstances into account, equitable principles are applied" (*ibid.*, p. 47, para. 85), no matter what methods are used for this purpose.

92. Subsequently, the Court of Arbitration's Decision of 30 June 1977 on the delimitation of the continental shelf between France and the United Kingdom confirms on this point the Court's conclusions in the *North Sea*

Continental Shelf cases and enunciates as follows the general rule of customary international law on the matter : "failing agreement, the boundary between States abutting on the same continental shelf is to be determined on equitable principles" (Decision, para. 70).

93. The next relevant decision is the Court's Judgment of 24 February 1982 in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*. In that case, it should be recalled, the Court had to render a judgment on the basis of a Special Agreement which, besides requesting the Court to determine "the principles and rules of international law" applicable to the delimitation, further requested that the Court take account of "equitable principles and the relevant circumstances which characterize the area, as well as the recent trends admitted at the Third Conference on the Law of the Sea" (Special Agreement, Art. 1, *I.C.J. Reports 1982*, p. 21, para. 1). Referring back to the earlier Judgment in the *North Sea Continental Shelf* cases, and to the proceedings and conclusions of the Third Conference, the 1982 Judgment stresses the importance of "the satisfaction of equitable principles . . . in the delimitation process" (*ibid.*, p. 47, para. 44).

94. Turning lastly to the proceedings of the Third United Nations Conference on the Law of the Sea and the final result of that Conference, the Chamber notes in the first place that the Convention adopted at the end of the Conference has not yet come into force and that a number of States do not appear inclined to ratify it. This, however, in no way detracts from the consensus reached on large portions of the instrument and, above all, cannot invalidate the observation that certain provisions of the Convention, concerning the continental shelf and the exclusive economic zone, which may, in fact, be relevant to the present case, were adopted without any objections. The United States, in particular, in 1983, that is to say after the Special Agreement had come into force, proclaimed an economic zone on the basis of Part V of the 1982 Convention. This proclamation was accompanied by a statement by the President to the effect that in that respect the Convention generally confirmed existing rules of international law. Canada, which has not at present made a similar proclamation, has for its part also recognized the legal significance of the nature and purpose of the new 200-mile régime. This concordance of views is worthy of note, even though the present Judgment is not directed to the delimitation of the exclusive economic zone as such. In the Chamber's opinion, these provisions, even if in some respects they bear the mark of the compromise surrounding their adoption, may nevertheless be regarded as consonant at present with general international law on the question.

95. In this connection, attention should be drawn to the identical definition, in Article 74, paragraph 1, and Article 83, paragraph 1, relating respectively to the exclusive economic zone and to the continental shelf, of the rule of international law respecting delimitation. That identical definition is as follows :

> "The delimitation of [the exclusive economic zone] [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."

It is thus limited to expressing the need for settlement of the problem by agreement and recalling the obligation to achieve an equitable solution. Although the text is singularly concise it serves to open the door to continuation of the development effected in this field by international case law.

111. A body of detailed rules is not to be looked for in customary international law which in fact comprises a limited set of norms for ensuring the co-existence and vital co-operation of the members of the international community, together with a set of customary rules whose presence in the *opinio juris* of States can be tested by induction based on the analysis of a sufficiently extensive and convincing practice, and not by deduction from preconceived ideas. It is therefore unrewarding, especially in a new and still unconsolidated field like that involving the quite recent extension of the claims of States to areas which were until yesterday zones of the high seas, to look to general international law to provide a ready-made set of rules that can be used for solving any delimitation problems that arise. A more useful course is to seek a better formulation of the fundamental norm, on which the Parties were fortunate enough to be agreed, and whose existence in the legal convictions not only of the Parties to the present dispute, but of all States, is apparent from an examination of the realities of international legal relations.

112. The Chamber therefore wishes to conclude this review of the rules of international law on the question to which the dispute between Canada and the United States relates by attempting a more complete and, in its opinion, more precise reformulation of the "fundamental norm" already mentioned. For this purpose it will, *inter alia*, draw also upon the definition of the "actual rules of law . . . which govern the delimitation of adjacent continental shelves – that is to say, rules binding upon States for all delimitations" which was given by the Court in its 1969 Judgment in the *North Sea Continental Shelf* cases (*I.C.J. Reports 1969*, pp. 46-47, para. 85). What general international law prescribes in every maritime delimitation between neighbouring States could therefore be defined as follows :

(1) No maritime delimitation between States with opposite or adjacent coasts may be effected unilaterally by one of those States. Such delimitation must be sought and effected by means of an agreement, following

negotiations conducted in good faith and with the genuine intention of achieving a positive result. Where, however, such agreement cannot be achieved, delimitation should be effected by recourse to a third party possessing the necessary competence.

(2) In either case, delimitation is to be effected by the application of equitable criteria and by the use of practical methods capable of ensuring, with regard to the geographic configuration of the area and other relevant circumstances, an equitable result.

114. On the basis of the conclusions already reached, the Chamber has found that general customary international law is not the proper place in which to seek rules specifically prescribing the application of any particular equitable criteria, or the use of any particular practical methods, for a delimitation of the kind requested in the present case. As already noted, customary international law merely contains a general requirement of the application of equitable criteria and the utilization of practical methods capable of implementing them. It is therefore special international law that must be looked to, in order to ascertain whether that law, as at present in force between the Parties to this case, does or does not include some rule specifically requiring the Parties, and consequently the Chamber, to apply certain criteria or certain specific practical methods to the delimitation that is requested.

155. Having concluded the two-stage analysis carried out in the foregoing paragraphs, the Chamber is now able to give a definitive answer to the question posed in paragraph 114 above. It has just been noted that the Parties to the present case, in the current state of the law governing relations between them, are not bound, under a rule of treaty-law or other rule, to apply certain criteria or to use certain particular methods for the establishment of a single maritime boundary for both the continental shelf and the exclusive maritime fishery zone, as in the present case. Consequently, the Chamber also is not so bound.

156. The Chamber may therefore begin by taking into consideration, without its approach being influenced by predetermined preferences, the criteria and especially the practical methods that may theoretically be applied to determining the course of the single maritime boundary between the United States and Canada in the Gulf of Maine and in the adjacent outer area. It will then be for the Chamber to select, from this range of possibilities, the criteria that it regards as the most equitable for the task to be performed in the present case, and the method or combination of practical methods whose application will best permit of their concrete implementation.

157. There has been no systematic definition of the equitable criteria that may be taken into consideration for an international maritime delimitation, and this would in any event be difficult *a priori*, because of their highly variable adaptability to different concrete situations. Codification efforts have left this field untouched. Such criteria have however been mentioned in the arguments advanced by the parties in cases concerning the determination of continental shelf boundaries, and in the judicial or arbitral decisions in those cases. There is, for example, the criterion expressed by the classic formula that the land dominates the sea ; the criterion advocating, in cases where no special circumstances require correction thereof, the equal division of the areas of overlap of the maritime and submarine zones appertaining to the respective coasts of neighbouring States ; the criterion that, whenever possible, the seaward extension of a State's coast should not encroach upon areas that are too close to the coast of another State ; the criterion of preventing, as far as possible, any cut-off of the seaward projection of the coast or of part of the coast of either of the States concerned ; and the criterion whereby, in certain circumstances, the appropriate consequences may be drawn from any inequalities in the extent of the coasts of two States into the same area of delimitation.

158. With regard to these and other possible criteria, the Chamber does not think it would be useful to undertake a more or less complete enumeration in the abstract of the criteria that are theoretically conceivable, or an evaluation, also in the abstract, of their greater or lesser degree of equitableness. As the Chamber has emphasized a number of times, their equitableness or otherwise can only be assessed in relation to the circumstances of each case, and for one and the same criterion it is quite possible to arrive at different, or even opposite, conclusions in different cases. The essential fact to bear in mind is, as the Chamber has stressed, that the criteria in question are not themselves rules of law and therefore mandatory in the different situations, but "equitable", or even "reasonable", criteria, and that what international law requires is that recourse be had in each case to the criterion, or the balance of different criteria, appearing to be most appropriate to the concrete situation.

159. Unlike the equitable criteria by which the delimitation must be guided, the practical methods that can be used for effecting the material delimitation have of course been the subject of certain *a priori* analyses. In this connection, mention may be made of the observations in the Court's Judgment in the *North Sea Continental Shelf* cases regarding the work done on the subject by the International Law Commission and its request for advice from a Committee of Experts (*I.C.J. Reports 1969*, p. 35, para. 53). During the course of that work mention was made of the use, according to circumstances, of the method of the lateral equidistance line or the median line, the method which was finally adopted by the Commission (and later by the 1958 Convention) as applicable, provided always that special circumstances do not justify the use of another method. But, as the Court also

recalled, mention was then made concurrently of other possible methods : that of drawing a line perpendicular to a coast, or to the general direction of a coast ; that of drawing a boundary prolonging an existing division of territorial waters, or the direction of the final segment of a land boundary, or the overall direction of such boundary. This list was moreover by no means exhaustive. These different methods, and others, have been used in turn in different delimitations effected by direct agreement between neighbouring States ; in this connection statistical considerations afford no indication either of the greater or lesser degree of appropriateness of any particular method, or of any trend in favour thereof discernible in international customary law.

160. The Chamber nevertheless considers that it must repeat, with reference to these practical methods, the observation already made with reference to the equitable criteria whose effective application should be by the use of these methods. This is another area in which comparisons in the abstract are most unlikely to yield useful results. On the general level all that can be done is to comment on the possible consequences of the rapid changes that have taken place in what is the very subject-matter of a maritime delimitation. The methods taken into consideration in a still relatively recent past – in this particular field ideas age very quickly – were few in number and of very similar inspiration. This limited choice was justifiable when these methods had to be applied over small distances, e.g., along boundaries between the territorial seas of adjacent States ; but the same choice may seem less justifiable when boundaries have to be established which cover hundreds of nautical miles and are intended, not to delimit jurisdiction over the waters immediately abutting on the coast, but in fact to share out the potential mineral wealth of continental shelves extending to the continental margin, or the biological resources of maritime and ocean areas of hitherto unimagined proportions. Obviously the preference given to a particular method for drawing a boundary over a very short distance from the coasts may no longer be justifiable where the delimitation has to extend a great distance from its starting-point and where different factors have to be taken into account.

161. It is true that, until the emergence of the present dispute, the problem of "long distance" delimitation, so to speak, had only come before an international judicial or arbitral body in relation to the continental shelf. This is the first time that a delimitation has been sought by requesting a chamber of the Court to draw a single line which will be valid both for the continental shelf and for the superjacent waters. It is, of course, quite possible, even at the theoretical level, that one method may seem preferable for the delimitation of the continental shelf, whereas another would be appropriate for the delimitation of an exclusive fishery zone or an exclusive

economic zone. It will be remembered that a question put to the Parties during the hearings in the present case was : in the event that one particular method, or set of methods, should appear appropriate for the delimitation of the continental shelf, and another for that of the exclusive fishery zone, what they considered to be the legal grounds that might be invoked for preferring one or the other in seeking to determine a single line. In its reply, the United States noted that in such circumstances there appeared to be no legal grounds to be invoked *a priori* for preferring one or another method, and that the applicable principles and relevant circumstances should be considered as an integrated whole. In the view of the United States, circumstances relevant to the functional effectiveness of a boundary relating to both the water column and the sea-bed should be given greater weight than circumstances relating to only one of them. Canada expressed the opinion that preference as to method should depend on the degree of relevance to be attached to a given factor in relation to the delimitation of all or any part of the boundary. It explained that such degree might differ in each of the two areas under consideration : the Gulf of Maine itself, as far seaward as the Cape Sable-Nantucket closing line, and the outer area that includes Georges Bank. It concluded that preference as to method should be dictated by the relevant circumstances of each of the two areas.

162. Here again the essential consideration is that none of the potential methods has intrinsic merits which would make it preferable to another in the abstract. The most that can be said is that certain methods are easier to apply and that, because of their almost mechanical operation, they are less likely to entail doubts and arouse controversy. That explains to a certain extent why they have been used more frequently or why they have in many cases been taken into consideration in preference to others. At any rate there is no single method which intrinsically brings greater justice or is of greater practical usefulness.

191. That being so, the Chamber has evidently to keep in mind its obligation to comply with the fundamental norm provided by general international law where this subject-matter is concerned. In this final phase of the decision-making process, the Chamber must therefore arrive at the concrete determination of the delimitation line that it is required to draw *(a)* while basing itself for the purpose on the criteria which it finds most likely to prove equitable in relation to the relevant circumstances of the case and *(b)* while making use, in order to apply these criteria to the case, of the practical method or combination of methods which it deems the most appropriate ; all this with the final aim in view of reaching an equitable result in the above circumstances.

192. Hence as regards, in the first place, the choice of the criteria on which the Chamber should base its decision, all the foregoing considera-

tions point to the advisability of its formally precluding the application of any criteria, however apparently equitable in themselves, which can now be seen as inappropriate to the delimitation of one or other of the two objects that the Parties' Special Agreement requests it to delimit. In this connection, the Chamber must again stress the responsibility laid upon it by the fact that the delimitation that it is required to carry out is, for the first time in international judicial or arbitral practice, a delimitation of two distinct elements by means of a single line. This is an unprecedented aspect of the case which lends it its special character and accordingly differentiates it from those that were the subject of previous decisions. To note this fact does not of course in any way imply that the criteria applied in those decisions must *ispo facto* be held inapplicable to the present case ; all that is meant is that the fact that the criteria in question were then found equitable and appropriate for the delimitation of the continental shelf does not imply that they must automatically possess the same properties in relation to the simultaneous delimitation of the continental shelf and the superjacent fishery zone. It is necessary that the adaptability of those criteria to this essentially different operation should first be verified in relation to its specific requirements.

195. To return to the immediate concerns of the Chamber, it is, accordingly, towards an application to the present case of criteria more especially derived from geography that it feels bound to turn. What is here understood by geography is of course mainly the geography of coasts, which has primarily a physical aspect, to which may be added, in the second place, a political aspect. Within this framework, it is inevitable that the Chamber's basic choice should favour a criterion long held to be as equitable as it is simple, namely that in principle, while having regard to the special circumstances of the case, one should aim at an equal division of areas where the maritime projections of the coasts of the States between which delimitation is to be effected converge and overlap.

201. In this connection, the Chamber would emphasize the necessity of not allowing oneself to be too easily swayed by the perfection which is apparent *a priori*, from the viewpoint of equally dividing a disputed area, in a line drawn in strict compliance with the canons of geometry, i.e., a line so constructed that each point in it is equidistant from the most salient points on the respective coastlines of the parties concerned. In an apposite passage of the 1969 Judgment on the *North Sea Continental Shelf* cases (*I.C.J. Reports 1969*, p. 36, para. 57), the Court showed how, in determining the course of a delimitation line intended to "effect an equal division of the particular area involved" between two coasts, no account need be taken of the presence of "islets, rocks and minor coastal projections, the disproportionally distorting effect of which can be eliminated by other means". In pursuance of this remark, the Chamber likewise would point out the potential disadvantages inherent in any method which takes tiny islands, uninhabited rocks or low-tide elevations, sometimes lying at a considerable distance from terra firma, as basepoint for the drawing of a line

intended to effect an equal division of a given area. If any of these geographical features possess some degree of importance, there is nothing to prevent their subsequently being assigned whatever limited corrective effect may equitably be ascribed to them, but that is an altogether different operation from making a series of such minor features the very basis for the determination of the dividing line, or from transforming them into a succession of basepoints for the geometrical construction of the entire line. It is very doubtful whether a line so constructed could, in many concrete situations, constitute a line genuinely giving effect to the criterion of equal division of the area in question, especially when it is not only a terrestrial area beneath the sea which has to be divided but also a maritime expanse in the proper sense of the term, since in the latter case the result may be even more debatable.

202. Furthermore, a line which, on account of the refinements in the technical method used to determine its course, follows a complicated or even a zigzag path, made up of a succession of segments on different bearings, might, if need be, seem acceptable as a boundary dividing the sea-bed alone, i.e., a boundary to be observed in the exploration and exploitation of the resources located in given areas of the subsoil. But there would seem to be far less justification for adopting such a line as a limit appropriate to maritime fishery zones, i.e., areas whose exploitable resources are not, for the most part, resources attached to the soil. Exploitation of the sea's fishery resources calls for the existence of clear boundaries of a constant course, that do not compel those engaging in such activity to keep checking their position in relation to the complicated path of the line to be respected.

203. In sum, just like the criteria to be applied to the delimitation, the methods to be used for the purpose of putting those criteria into practice cannot fail to be influenced by the special characteristics and requirements pertaining to the delimitation by a single boundary of both the continental shelf and the superjacent water column which, far from being a genuine column of definite shape, is in reality a volume of liquid in movement, forming the habitat of mobile fauna. Undeniably, a degree of simplification is an elementary requisite to the drawing of any delimitation line in such an environment.

212. The Chamber is therefore of the opinion that, on these grounds, and the better, moreover, to ensure the effective implementation of the criterion by which it has every reason to be guided, it is necessary to renounce the idea of employing the technical method of equidistance. It considers that preference must be given to a method which, while inspired by the same considerations, avoids the difficulties of application pointed out above and is at the same time more suited to the production of the desired result. The essential premise of the operation, as the Chamber sees it, is to take note of the fact that the point of departure of the delimitation

line to be drawn, and hence of its first segment, must be point A and no other point, whatever its justification. That understood, the Chamber considers that the practical method to be applied must be a geometrical one based on respect for the geographical situation of the coasts between which the delimitation is to be effected, and at the same time suitable for producing a result satisfying the repeatedly mentioned criterion for the division of disputed areas.

230. The fundamental rule of general international law governing maritime delimitations, the rule which provided the Chamber with its starting-point for the reasoning so far followed, requires that the delimitation line be established while applying equitable criteria to that operation, with a view to reaching an equitable result. It is precisely by the adoption of a basic criterion whose equitable character is generally admitted and has been sanctioned by the authority of the Court, and by also resorting, where necessity arose, to auxiliary criteria which are also equitable, and, finally, by putting those criteria into practice through the methods judged most appropriate to that end, that the Chamber has succeeded in drawing the delimitation line requested of it by the Parties. Its last remaining task before formulating its final decision will be to ascertain whether the result thus arrived at may be considered as intrinsically equitable, in the light of all the circumstances which may be taken into account for the purposes of that decision.

231. In fact, such verification is not absolutely necessary where the first two segments of the line are concerned. Within the Gulf, i.e., landward of its closing line, it would scarcely be possible to assess the equitable character of the delimitation there carried out on the basis of any other than the dominant parameters provided by the physical and political geography of the area. And it is precisely those parameters which served the Chamber as a guide in determining the parts of the line which are to take effect in this portion of the delimitation area. Moreover, attention may be drawn to the fact that the Parties did not make any special reference to the fishing resources of this portion of the delimitation area when pointing out the general importance of those resources for their economies ; neither did the Parties refer to any explorations carried out in this sector with a view to the discovery and exploitation of petroleum resources.

232. The question may take on a different complexion, however, in regard to the third segment of the line, whose effect will be felt in that part of the delimitation area which lies outside and far from the shores of the Gulf and which, not so long ago, was part of the high seas. For present purposes, it must be borne in mind that this final segment of the line is the one of greatest interest to the Parties, on account of the presence of Georges Bank. This Bank is the real subject of the dispute between the United States and Canada in the present case, the principal stake in the proceedings, from the viewpoint of the potential resources of the subsoil and also, in particular, that of fisheries that are of major economic impor-

tance. Some enquiry whether, in addition to the factors provided by the geography of the Gulf itself, there are no others that should be taken into account, is therefore an understandable step. It might well appear that other circumstances ought properly to be taken into consideration in assessing the equitable character of the result produced by this portion of the delimitation line, which is destined to divide the riches of the waters and shelf of this Bank between the two neighbouring countries. These other circumstances may be summed up by what the Parties have presented as the data provided by human and economic geography, and they are thus circumstances which, though in the Chamber's opinion ineligible for consideration as criteria to be applied in the delimitation process itself, may – as indicated in Section II, paragraph 59, above – be relevant to assessment of the equitable character of a delimitation first established on the basis of criteria borrowed from physical and political geography.

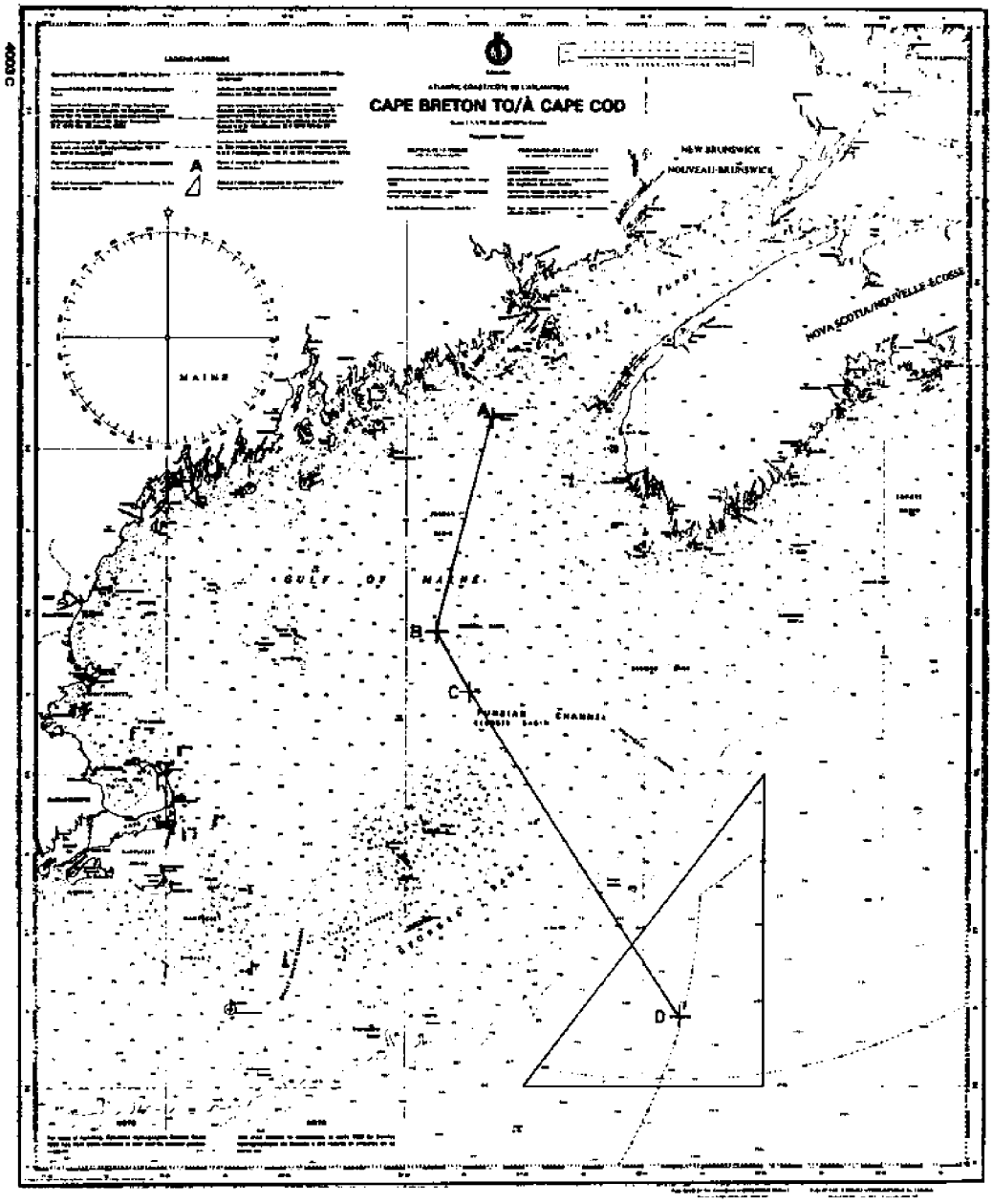
233. In the eyes of the United States, the main consideration here is the historical presence of man in the disputed areas. It believes the decisive factor here to be the activities pursued by the United States and its nationals since the country's independence and even before, activities which they claim to have been alone in pursuing over the greater part of that long period. This reasoning is simple and somewhat akin to the invocation of historic rights, though that expression has not been used. This continuous human presence took the form especially of fishing, and of the conservation and management of fisheries, but it also included other maritime activities concerning navigational assistance, rescue, research, defence, etc. All these activities, said greatly to exceed in duration and scale the more recent and limited activities of Canada and its nationals, must, according to the United States, be regarded as a major relevant circumstance for the purpose of reaching an equitable solution to the delimitation problem.

234. On the other hand it was Canada which, in the course of the proceedings, laid the greater emphasis on what it considered to be the decisive importance of socio-economic aspects. However, it was not a question, in its view, of invoking any historic rights such as might compete with those rights on which the United States was in effect relying. The only period which in Canada's eyes should be regarded as relevant was the recent one leading up to, or even continuing beyond, the time when both States finally decided to go ahead with the institution of exclusive fishery zones. Canada was of the view that attention should be especially concentrated on two aspects : the distribution of fish stocks in the various parts of the area, and the fishing practices respectively established and followed by the two Parties. As already noted in Section IV, paragraph 110, it sought to erect into an equitable principle, of determining force for the purposes of delimitation, the idea that any single maritime boundary should ensure the maintenance of the existing fishing patterns that are in its view vital to the coastal communities of the region in question. In other

words, the Chamber, in carrying out the delimitation, should aim to avoid in any way harming the economic and social development of the centres of population in Nova Scotia, bearing in mind that that development had been possible thanks to the contribution made by the product of the Canadian fisheries established on the Georges Bank, especially in the last 15 years.

235. The Chamber cannot adopt these positions of the Parties. Concerning that of the United States, it can only confirm its decision not to ascribe any decisive weight, for the purposes of the delimitation it is charged to carry out, to the antiquity or continuity of fishing activities carried on in the past within that part of the delimitation area which lies outside the closing line of the Gulf. Until very recently, as the Chamber has recalled, these expanses were part of the high seas and as such freely open to the fishermen not only of the United States and Canada but also of other countries, and they were indeed fished by very many nationals of the latter. The Chamber of course readily allows that, during that period of free competition, the United States, as the coastal State, may have been able at certain places and times – no matter for how long – to achieve an actual predominance for its fisheries. But after the coastal States had set up exclusive 200-mile fishery zones, the situation radically altered. Third States and their nationals found themselves deprived of any right of access to the sea areas within those zones and of any position of advantage they might have been able to achieve within them. As for the United States, any mere factual predominance which it had been able to secure in the area was transformed into a situation of legal monopoly to the extent that the localities in question became legally part of its own exclusive fishery zone. Conversely, to the extent that they had become part of the exclusive fishery zone of the neighbouring State, no reliance could any longer be placed on that predominance. Clearly, whatever preferential situation the United States may previously have enjoyed, this cannot constitute in itself a valid ground for its now claiming the incorporation into its own exclusive fishery zone of any area which, in law, has become part of Canada's.

237. It is, therefore, in the Chamber's view, evident that the respective scale of activities connected with fishing – or navigation, defence or, for that matter, petroleum exploration and exploitation – cannot be taken into account as a relevant circumstance or, if the term is preferred, as an equitable criterion to be applied in determining the delimitation line. What the Chamber would regard as a legitimate scruple lies rather in concern lest the overall result, even though achieved through the application of equitable criteria and the use of appropriate methods for giving them concrete effect, should unexpectedly be revealed as radically inequitable, that is to say, as likely to entail catastrophic repercussions for the livelihood and economic well-being of the population of the countries concerned.



DELIMITATION LINE DRAWN BY THE CHAMBER

Dispute Concerning Delimitation of the Maritime Boundary (Guines/Guinea-Bissau) (excerpts), 1985*

* 25 I.L.M. 251; 252; 255-256 (Article 2); 270 (38); 271-272 (40,43); 276-277 (49); 279 (56); 288 (83-84); 289 (88); 293 (98); 297-305 (108, 112-113, 118-119, 122, 125, 130); and 306-307 (Award of 14 February 1985.

ARBITRATION TRIBUNAL

FOR THE

DELIMITATION OF THE MARITIME BOUNDARY

BETWEEN GUINEA AND GUINEA-BISSAU

AWARD OF 14 FEBRUARY 1985

Dispute submitted to an Arbitration Tribunal - Absence of a maritime boundary in the Franco-Portuguese Convention of 1886 - Ordinary meaning of the words within their context and in the light of the object and purpose of the Convention - Subsequent conduct of the Parties - Preparatory work and circumstances of the conclusion of the Convention.

Delimitation of the maritime territories of the two States - Nature of their coastlines - Methods of delimitation - Equidistance - Parallels of latitude - General configuration of the West African coast - Unity of the continental shelf - Proportionality of the surfaces to be attributed to the lengths of the coasts - Other circumstances.

ARTICLE 2

It is requested of the Tribunal that it decide according to the relevant rules of international law the following questions:

Did the Convention of 12 May 1886 between France and Portugal establish the maritime boundary between the respective possessions of those two States in West Africa?

What judicial effect can be attributed to the protocols and documents annexed to the Convention of 1886 for the interpretation of the aforesaid Convention?

According to the answers given to the two above-mentioned questions, what is the course of the boundary between the maritime territories appertaining respectively to the Republic of Guinea-Bissau and the People's Revolutionary Republic of Guinea?

38. Pursuant to Article 2 of the Special Agreement, the Parties have requested the Tribunal to decide three questions "according to the relevant rules of international law." The first two questions revolve around whether the 1886 Convention between France and Portugal establishes the maritime boundary between the respective possessions of those two States in West Africa. The aim of the third question is to obtain the precise course of the boundary between the maritime territories appertaining respectively to each of the two Parties in the present case. Their correct interpretation will be given below. As to identifying the relevant rules, it is necessary to consider the sources of international law enumerated in paragraph 1 of Article 38 of the Statute of the International Court of Justice. Certain other specific texts will also be indicated below.

40. The Parties, which had agreed in accordance with the preamble to the Special Agreement to consider the 1886 Convention as a precise definition of the land boundary and as a basic document for their discussions concerning their maritime boundary, have not contested the validity of this Convention as regards the relevant rules of international law. It remained in force between France and Portugal until the end of the colonial period, and became binding between the successor States by virtue of the principle of uti possidetis. This principle, recalled in the preamble to the Special Agreement, was solemnly proclaimed in Cairo on 21 July 1964, when the Heads of State and Heads of Government of the Organization of African Unity (OAU) declared that all Member States pledged to "respect the boundaries existing at the time they reached their independence." This conforms not only with paragraph 3, Article III, of the OAU Charter dated 25 May 1963 concerning the principle of "respect of the sovereignty and territorial integrity of each State and its inalienable right to an independent existence," but also with the Vienna Convention of 23 August 1978 on the Succession of States in Respect of Treaties. The relevant provisions of this latter convention, which is not yet in force, and which in fact neither Guinea nor Guinea-Bissau has adhered to, are nonetheless held to reflect customary rules of international law. The Tribunal concludes that the provisions of the 1886 Convention concerning what it calls "Guinea" are generally, subject to their correct interpretation, applicable to Guinea and Guinea-Bissau. Whether the principle of uti possidetis applies more specifically to maritime boundaries was debated by the Parties, but this point will arise only if a positive answer is given to the first question submitted to the Tribunal.

43. As to the third question, both Parties have invoked, as relevant rules of international law, custom, judicial and arbitral decisions and, above all, conventions concluded under U.N. auspices. They invoke the relevant provisions of the Conventions of 29 April 1958, particularly those concerning the territorial sea and continental shelf, though neither State adhered to any of these conventions upon the achievement of their independence. As to the new Convention on the Law of the Sea signed at Montego Bay on 10 December 1982 by 119 States including Guinea-Bissau, but not yet in force, both Parties mentioned several of its provisions which they considered to be consistent with the evolution of international custom concerning the contemporary trends of the law of the sea. The Tribunal must consider these factors, which the International Court of Justice took into account in the Fisheries Jurisdiction case, the Tunisia/Libyan case and the Gulf of Maine case, (I.C.J. Reports 1974, pp. 23, paragraph 53, and 192, paragraph 45; 1982, pp. 37-38, paragraph 23-24; 1984, p. 294, paragraph 94).

49. The disagreement stems first of all from the meaning to be given to the word limit:* Guinea holds that it is synonymous with boundary and remarks that it is generally used in this sense in maritime affairs, whereas Guinea-Bissau gives it a less precise meaning in this case. The Tribunal observes that the two expressions must be taken here in their spatial sense, with due regard to their legal connotations. In French as in Portuguese, and according to the definitions provided by linguistic or legal dictionaries, mentioned or not mentioned by the Parties, they are slightly ambiguous. First of all, they can mean either a zone, especially if in the plural, or a line, which is of course the case here. Secondly, the word limit can have two meanings, a general one and a more specific one. This appears in particular in a French dictionary contemporaneous with the signature of the 1886 Convention, the Dictionnaire général de la langue française du commencement du XVIIe siècle jusqu'à nos jours (The General Dictionary of the French language from the beginning of the 17th century to today), by Hatzfeld and Darmesteter, which defines limit as the "extreme part where a territory, a domain ends," and boundary as the "limit which separates the territory of a State from that of a neighboring State." One can thus see that the territory enclosed by a limit is not necessarily that of a State, and a limit is not necessarily a boundary. Generally, a limit indicates the extent of a domain, whereas the role of a boundary is to separate two States.

* Translator's note: "limite" in the French and Portuguese texts.

56. The Tribunal considers that the frequent use of the terms possessions and territory in the text of the Convention proves that the colonial possessions of France and Portugal in West Africa were its object; but the complete absence of the words waters, sea, maritime or territorial sea is a clear sign that essentially land possessions were involved here. In another respect, it seems to the Tribunal that the main purpose of the Convention was the distribution, cession (Art. VI), exchange or eventual occupation (Art. IV) of territories, and that delimitation was but one aspect or one means of distribution of territories which were never mentioned as possibly being maritime. Here, it would seem, lies the true object not only of Article I, but of the entire Convention. The Convention merely "prepared the delimitation" (preamble) for territories confirmed or ceded, the "demarcation" (Art. VII) of which still had to be accomplished on the spot; naturally this was unnecessary in other territories where the Convention limited itself to a promise of well-disposed neutrality (Art. IV).

83. Thus, what the reading of the 1886 Convention text leaves ambiguous or obscure has been elucidated and confirmed by the subsequent practice of the signatory States and their successor States. As neither of the two interpretations between which the Tribunal is being asked to decide is manifestly absurd or unreasonable, the supplementary means of interpretation provided for by Article 32 of the Vienna Convention on the Law of Treaties and imposed by the second question submitted to the Tribunal is thus concluded.

84. The Tribunal is therefore in a position to reply, in reverse order, to the first two questions submitted by the Parties:

a) The protocols and documents annexed to the Franco-Portuguese Convention of 12 May 1886 have an important role to play in the legal interpretation of Article I of this Convention.

b) This Convention did not determine the maritime boundary between the respective possessions of France and Portugal in West Africa.

88. It should nevertheless be specified, as was done by the Chamber of the International Court of Justice in its judgment of 12 October 1984 in the Gulf of Maine case, that international customary law can provide, in a matter like that of the present Award, "only a few basic legal principles, which lay down guidelines to be followed with a view to reaching an essential objective." (ICJ Reports 1984, p. 290, paragraph 81.) For the Tribunal, the essential objective consists of finding an equitable solution with reference to the provisions of Article 74, paragraph 1, and Article 83, paragraph 1, of the Convention of 10 December

1982 on the Law of the Sea. This is a rule of international law which is recognized by the Parties and which compels recognition by the Tribunal. However, in each particular case, its application requires recourse to factors and the application of methods which the Tribunal is empowered to select. This nevertheless does not mean that the Tribunal is endowed with discretionary powers or is authorized to decide ex aequo et bono. Its findings must be based on considerations of law.

98. In order to ensure that each Party has control over the maritime territory opposite and in the vicinity of its coast, an important factor is the coastal configuration and orientation. This configuration must include the relevant islands, i.e., the coastal islands and the Bijagos Archipelago. The problems which arise nevertheless vary according to whether the coastline in question is concave or convex, whether it is considered from nearby or from afar, and whether a limited or more extensive area is considered. Not having given the same weight to these circumstances, the two States have claimed very different lines of delimitation. Guinea-Bissau advocates an equidistance line, whereas Guinea argues in favor of a line principally based on a parallel of latitude.

108. In the Tribunal's view, a valid method consists of looking at the whole of West Africa and of seeking a solution which would take overall account of the shape of its coastline. This would mean no longer restricting considerations to a short coastline but to a long coastline. However, while the continuous coastline of the two Guineas - or of the three countries when Sierra Leone is included - is generally concave, that of West Africa in general is undoubtedly convex. With this in mind, the Tribunal considers that the delimitation of maritime territories to be attributed to coastal States could be made following one of the directions which takes this circumstance into account. These directions would be approximately divergent. This idea, which in the present case would seem to offer an equitable result, automatically condemns the system of parallels of latitude defended by Guinea and of which the limit represented by the parallel of 10° 40' north latitude would have been just one example. However, it also condemns the equidistance method as seen by Guinea-Bissau. It leads towards a delimitation which is integrated into the present or future delimitations of the region as a whole.

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112. The Parties have invoked several other circumstances, while according them unequal importance. By referring to circumstances which it considers relevant in the present case, the Tribunal considers that it has already determined a line offering an equitable delimitation. It is now necessary, by considering other circumstances, to establish whether the chosen line effectively leads to an equitable result.

113. The first of these other circumstances is the structure and nature of the continental shelf. The Parties have asked the Tribunal to draw the same line for the territorial waters, the exclusive economic zone and the continental shelf. Guinea has claimed that the criterion of natural prolongation is irrelevant because, apart from the fact that it is also necessary to delimit an economic zone, there is no longer any identity of meaning between geographical and legal notions of the continental shelf. It has emphasized that, in any event, Guinea-Bissau, unlike Guinea, will have a continental shelf exceeding a distance of 200 miles out to sea and that morphological differentiations of the shelf common to both Guineas are neither well enough known nor well enough marked to constitute natural limits. Guinea-Bissau, on the other hand, has mentioned distinctive features of this shelf as described in paragraphs 19-23 above, with a view to defending a delimitation which takes account of their existence and to orienting the Tribunal towards the choice of the equidistance line it proposes. It has underlined the fact that this line would lie within the erosion zone south of the Bijagos, that it would be roughly parallel to the trenches in this zone and that it would pass between the flood deltas of the Orango and Nunez, one of which, according to Guinea-Bissau, constitutes the prolongation of its territory, while the other constitutes the prolongation of Guinea's territory.

118. The proportionality between the surface areas of maritime zones to be attributed is another circumstance which the Tribunal has to examine. The Parties have argued this question from two aspects: proportionality in relation to the land mass of each State and proportionality in relation to the length of their coastlines. As far as the Tribunal is concerned, proportionality must be considered in the assessment of factors which enter into the equation leading to an equitable result. Combined with all the other factors, it enables the States concerned to be dealt with on an equal footing. However, this does not concern mathematical equality, but rather legal equality.

119. As for proportionality with relation to the land mass of each State, the Tribunal considers that this does not constitute a relevant factor in this case. The rights which a State may claim to have over the sea are not related to the extent of the territory behind its coasts, but to the coasts themselves and to the manner in which they border this territory. A State with a fairly small land area may well be justified in claiming a much more extensive maritime territory than a larger country. Everything depends on their respective maritime facades and their formations.

122. The Tribunal has taken note that both Guinea and Guinea-Bissau are developing countries, both being confronted with considerable economic and financial difficulties which increased resources from the sea could help to attenuate. Both of them justly aspire to obtaining fair profits from this present or potential wealth for the benefit of their peoples. However, this Tribunal has not, any more than the International Court of Justice in the Tunisia/Libya case (ICJ Reports 1982, p. 77-78, paragraph 107), acquired the conviction that economic problems constitute permanent circumstances to be taken into account for purposes of delimitation. As the Tribunal can be concerned only with a contemporary evaluation, it would be neither just nor equitable to base a delimitation on the evaluation of data which changes in relation to factors that are sometimes uncertain.

125. The examination which the Tribunal has just carried out has led it to conclude that none of the additional circumstances invoked by the Parties is such as to affect its decision concerning the delimitation line to be drawn between the maritime territories of the two States. Consequently, as no other circumstance appears to be relevant in the present case, the Tribunal upholds the line of delimitation set forth in paragraph 111 above.

130. For these reasons,

THE TRIBUNAL

has unanimously

decided that:

1) the Convention of 12 May 1886 between France and Portugal did not determine a maritime boundary between the respective possessions of those two States in West Africa;

2) the protocols and documents annexed to the 1886 Convention have an important role to play in the legal interpretation of the said Convention;

3) the line delimiting the respective maritime territories of the Republic of Guinea-Bissau and the Republic of Guinea:

a) starts from the intersection of the thalweg of the Cajet River and the meridian of 15° 06' 30" west longitude;

b) joins by loxodromic segments the following points:

	LATITUDE NORTH	LONGITUDE WEST
A	10° 50' 00"	15° 09' 00"
B	10° 40' 00"	15° 20' 30"
C	10° 40' 00"	15° 34' 15"

c) follows a loxodromic line on an azimuth of 236° from point C above to the outer limit of the maritime territories of each States as recognized under general international law.

DONE in French and Portuguese, with the French text being the only one valid in law, at the Peace Palace in the Hague on the fourteenth day of February in the year one thousand nine hundred and eight-five, in three original copies, one of which will be filed in the archives of the Tribunal, the others being transmitted to the Government of the Republic of Guinea and the Government of the Republic of Guinea-Bissau respectively .

O. DISPUTE PREVENTION AND SETTLEMENT

Agreement for the Submission to Arbitration of Questions Relating to Fisheries on the North Atlantic Coast (United States-United Kingdom), January 27, 1909*

* 208 Parry's T.S. 260; 3 AM. J. INT'L L. 168 (1909).

SPECIAL AGREEMENT FOR THE SUBMISSION OF QUESTIONS RELATING TO FISHERIES ON THE NORTH ATLANTIC COAST UNDER THE GENERAL TREATY OF ARBITRATION CONCLUDED BETWEEN THE UNITED STATES AND GREAT BRITAIN ON THE 4TH DAY OF APRIL, 1908.

January 27, 1909.

ARTICLE I.

Whereas, by article I of the convention signed at London on the 20th day of October, 1818, between the United States and Great Britain, it was agreed as follows:

"Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof, to take, dry and cure fish on certain coasts, bays, harbours and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States, shall have forever, in common with the subjects of His Britannic Majesty, the liberty to take Fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon Islands on the shores of the Magdalen Islands, and also on the coasts, bays, harbours, and creeks from Mount Joly on the southern coast of Labrador, to and through the Straits of Belleisle and thence northwardly indefinitely along the coast, without prejudice however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty forever, to dry and cure fish in any of the unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the

same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. — And the United States hereby renounce forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above mentioned limits; provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them."

And, whereas, differences have arisen as to the scope and meaning of the said article, and of the liberties therein referred to, and otherwise in respect of the rights and liberties which the inhabitants of the United States have or claim to have in the waters or on the shores therein referred to:

It is agreed that the following questions shall be submitted for decision to a tribunal of arbitration constituted as hereinafter provided:

Question 1. To what extent are the following contentions or either of them justified?

It is contended on the part of Great Britain that the exercise of the liberty to take fish referred to in the said article, which the inhabitants of the United States have forever in common with the subjects of His Britannic Majesty, is subject, without the consent of the United States, to reasonable regulation by Great Britain, Canada, or Newfoundland in the form of municipal laws, ordinances, or rules, as, for example, to regulations in respect of (1) the hours, days, or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements to be used in the taking of fish or in the carrying on of fishing operations on such coasts; (3) any other matters of a similar character relating to fishing; such regulations being reasonable, as being, for instance —

(*a*) Appropriate or necessary for the protection and preservation of such fisheries and the exercise of the rights of British subjects therein and of the liberty which by the said article I the inhabitants of the United States have therein in common with British subjects;

(*b*) Desirable on grounds of public order and morals;

(*c*) Equitable and fair as between local fishermen and the inhabitants of the United States exercising the said treaty liberty and not so framed as to give unfairly an advantage to the former over the latter class.

It is contended on the part of the United States that the exercise of such liberty is not subject to limitations or restraints by Great Britain, Canada, or Newfoundland in the form of municipal laws, ordinances, or regulations in respect of (1) the hours, days, or seasons when the inhabitants of the United States may take fish on the treaty coasts, or (2) the method, means, and implements used by them in taking fish or in carrying on fishing operations on such coasts, or (3) any other limitations or restraints of similar character —

(*a*) Unless they are appropriate and necessary for the protection and preservation of the common rights in such fisheries and the exercise thereof; and

(*b*) Unless they are reasonable in themselves and fair as between local fishermen and fishermen coming from the United States, and not so framed as to give an advantage to the former over the latter class; and

(*c*) Unless their appropriateness, necessity, reasonableness, and fairness be determined by the United States and Great Britain by common accord and the United States concurs in their enforcement.

Question 2. Have the inhabitants of the United States, while exercising the liberties referred to in said article, a right to employ as members of the fishing crews of their vessels persons not inhabitants of the United States?

Question 3. Can the exercise by the inhabitants of the United States of the liberties referred to in the said article be subjected, without the consent of the United States, to the requirements of entry or report at custom-houses or the payment of light or harbor or other dues, or to any other similar requirement or condition or exaction?

Question 4. Under the provision of the said article that the American fishermen shall be admitted to enter certain bays or harbors for shelter, repairs, wood, or water, and for no other purpose whatever, but that they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein or in any other manner whatever abusing the privileges thereby reserved to them, is it permissible to impose restrictions making the exercise of such privileges conditional upon the payment of light or harbor or other dues, or entering or reporting at custom-houses or any similar conditions?

Question 5. From where must be measured the "three marine miles of any of the coasts, bays, creeks, or harbors" referred to in the said article?

Question 6. Have the inhabitants of the United States the liberty under said article or otherwise, to take fish in the bays, harbors, and creeks on that part of the southern coast of Newfoundland which extends from Cape Ray to Rameau Islands, or on the western and northern coasts of Newfoundland from Cape Ray to Quirpon Islands, or on the Magdalen Islands?

Question 7. Are the inhabitants of the United States whose vessels resort to the treaty coasts for the purpose of exercising the liberties referred to in article I of the treaty of 1818 entitled to have for those vessels, when duly authorized by the United States in that behalf, the commercial privileges on the treaty coasts accorded by agreement or otherwise to United States trading vessels generally?

ARTICLE II.

Either party may call the attention of the tribunal to any legislative or executive act of the other party, specified within three months of the exchange of notes enforcing this agreement, and which is claimed to be inconsistent with the true interpretation of the treaty of 1818; and may call upon the tribunal to express in its award its opinion upon such acts, and to point out in what respects, if any, they are inconsistent with the principles laid down in the award in reply to the preceding questions; and each party agrees to conform to such opinion.

ARTICLE III.

If any question arises in the arbitration regarding the reasonableness of any regulation or otherwise which requires an examination of the practical effect of any provisions in relation to the conditions surrounding the exercise of the liberty of fishery enjoyed by the inhabitants of the United States, or which requires expert information about the fisheries themselves, the tribunal may, in that case, refer such question to a commission of three experts specialists in such matters; one to be designated by each of the parties hereto, and the third, who shall not be a national of either party, to be designated by the tribunal. This commission shall examine into and report their conclusions on any question or questions so referred to it by the tribunal and such report shall be considered by the tribunal and shall, if incorporated by them in the award, be accepted as a part thereof.

Pending the report of the commission upon the question or questions so referred and without awaiting such report, the tribunal may make a separate award upon all or any other questions before it, and such separate award, if made, shall become immediately effective, provided that the report aforesaid shall not be incorporated in the award until it has been considered by the tribunal. The expenses of such commission shall be borne in equal moieties by the parties hereto.

ARTICLE IV.

The tribunal shall recommend for the consideration of the high contracting parties rules and a method of procedure under which all questions which may arise in the future regarding the exercise of the liberties above referred to may be determined in accordance with the principles laid down in the award. If the high contracting parties shall not adopt the rules and method of procedure so recommended, or if they shall not, subsequently to the delivery of the award, agree upon such rules and methods, then any difference which may arise in the future between the high contracting parties relating to the interpretation of the treaty of 1818 or to the effect and application of the award of the tribunal shall be referred informally to the permanent court at The Hague for decision by the summary procedure provided in chapter IV of The Hague Convention of the 18th of October, 1907.

ARTICLE V.

The tribunal of arbitration provided for herein shall be chosen from the general list of members of the Permanent Court at The Hague, in accordance with the provisions of article XLV of the convention for the settlement of international disputes, concluded at the Second Peace Conference at The Hague on the 18th of October, 1907. The provisions of said convention, so far as applicable and not inconsistent herewith, and excepting Articles LIII and LIV, shall govern the proceedings under the submission herein provided for.

The time allowed for the direct agreement of the President of the United States and His Britannic Majesty on the composition of such tribunal shall be three months.

ARTICLE VI.

The pleadings shall be communicated in the order and within the time following:

As soon as may be and within a period not exceeding seven months from the date of the exchange of notes making this agreement binding the printed case of each of the parties hereto, accompanied by printed copies of the documents, the official correspondence, and all other evidence on which each party relies, shall be delivered in duplicate (with such additional copies as may be agreed upon) to the agent of the other party. It shall be sufficient for this purpose if such case is delivered at the British Embassy at Washington or at the American Embassy at London, as the case may be, for transmission to the agent for its Government.

Within fifteen days thereafter such printed case and accompanying evidence of each of the parties shall be delivered in duplicate to each member of the tribunal, and such delivery may be made by depositing within the stated period the necessary number of copies with the International Bureau at The Hague for transmission to the arbitrators.

After the delivery on both sides of such printed case, either party may, in like manner, and within four months after the expiration of the period above fixed for the delivery to the agents of the case, deliver to the agent of the other party (with such additional copies as may be agreed upon), a printed counter-case accompanied by printed copies of additional documents, correspondence, and other evidence in reply to the case, documents, correspondence, and other evidence so presented by the other party, and within fifteen days thereafter such party shall, in like manner as above provided, deliver in duplicate such counter-case and accompanying evidence to each of the arbitrators.

The foregoing provisions shall not prevent the tribunal from permitting either party to rely at the hearing upon documentary or other evidence which is shown to have become open to its investigation or examination or available for use too late to be submitted within the period hereinabove fixed for the delivery of copies of evidence, but in case any such evidence is to be presented, printed copies of it, as soon as possible after it is secured, must be delivered, in like manner as provided for the delivery of copies of other evidence, to each of the arbitrators and to the agent of the other party. The admission of any such additional evidence, however, shall be subject to such conditions as the tribunal may impose, and the other party shall have a reasonable opportunity to offer additional evidence in rebuttal.

The tribunal shall take into consideration all evidence which is offered by either party.

ARTICLE VII.

If in the case or counter-case (exclusive of the accompanying evidence) either party shall have specified or referred to any documents, correspondence, or other evidence in its own exclusive possession without annexing a copy, such party shall be bound, if the other party shall demand it within thirty days after the delivery of the case or counter-case respectively, to furnish to the party applying for it a copy thereof; and either party may, within the like time, demand that the other shall furnish certified copies or produce for inspection the originals of any documentary evidence adduced by the party upon whom the demand is made. It shall be the duty of the party upon whom any such demand is made to comply with it as soon as may be, and within a period not exceeding fifteen days after the demand has been received. The production for inspection or the furnishing to the other party of official governmental publications, publishing, as authentic, copies of the documentary evidence referred to, shall be a sufficient compliance with such demand, if such governmental publications shall have been published prior to the 1st day of January, 1908. If the demand is not complied with, the reasons for the failure to comply must be stated to the tribunal.

ARTICLE VIII.

The tribunal shall meet within six months after the expiration of the period above fixed for the delivery to the agents of the case, and upon the assembling of the tribunal at its first session each party, through its agent or counsel, shall deliver in duplicate to each of the arbitrators and to the agent and counsel of the other party (with such additional copies as may be agreed upon) a printed argument showing the points and referring to the evidence upon which it relies.

The time fixed by this agreement for the delivery of the case, counter-case, or argument, and for the meeting of the tribunal, may be extended by mutual consent of the parties.

ARTICLE IX.

The decision of the tribunal shall, if possible, be made within two months from the close of the arguments on both sides, unless on the request of the tribunal the parties shall agree to extend the period.

It shall be made in writing, and dated and signed by each member of the tribunal, and shall be accompanied by a statement of reasons.

A member who may dissent from the decision may record his dissent when signing.

The language to be used throughout the proceedings shall be English.

ARTICLE X.

Each party reserves to itself the right to demand a revision of the award. Such demand shall contain a statement of the grounds on which it is made and shall be made within five days of the promulgation of the award, and shall be heard by the tribunal within ten days thereafter. The party making the demand shall serve a copy of the same on the opposite party, and both parties shall be heard in argument by the tribunal on said demand. The demand can only be made on the discovery of some new fact or circumstance calculated to exercise a decisive influence upon the award and which was unknown to the tribunal and to the party demanding the revision at the time the discussion was closed, or upon the ground that the said award does not fully and sufficiently, within the meaning of this agreement, determine any question or questions submitted. If the tribunal shall allow the demand for a revision, it shall afford such opportunity for further hearings and arguments as it shall deem necessary.

ARTICLE XI.

The present agreement shall be deemed to be binding only when confirmed by the two governments by an exchange of notes.

In witness whereof this agreement has been signed and sealed by the Secretary of State of the United States, Elihu Root, on behalf of the United States, and by His Britannic Majesty's Ambassador at Washington, The Right Honorable James Bryce, O. M., on behalf of Great Britain.

Done at Washington on the 27th day of January, one thousand nine hundred and nine.

(Signed) ELIHU ROOT.
(Signed) JAMES BRYCE.

7. The Board shall act as an intermediary between the claimant and the respondent and, at any stage of its considerations of a claim, may approach the claimant and the respondent to try to bring about a conciliation.

8. The appropriate authorities of the two Governments shall facilitate the work of the Board.

ARTICLE IV

1. On the basis of the evidence submitted and heard and of its discussions thereof, the Board shall prepare a report containing its findings as to:

(a) the facts giving rise to the claim;

(b) the extent of damage and loss;

(c) the degree of respondent's and claimant's responsibility, if any; and

(d) the amount, if any, which should be paid by respondent or claimant as compensation for damage and loss arising from the incident.

2. If the Board has not unanimously adopted the findings, this shall be stated in the report, along with a detailed account of each Board member's opinion.

3. The Board shall reach a decision on the claim within sixty days after it has collected all the evidence it deems necessary

and then shall without delay transmit its report to the claimant, the respondent, and the appropriate authorities of the two Governments. If the Board is of the opinion that one of the parties should pay compensation, the Board shall address a recommendation to that effect to the party concerned.

4. Within thirty days after receipt of the Board's report, either the claimant or the respondent may request in writing that the Board reconsider its report. The request shall set forth the reasons for the request and material substantiating the request. The Board may decide to reconsider its report and, if it deems appropriate, receive new evidence or convene a rehearing, or both. Article III procedures will be applicable to the reconsideration.

5. The appropriate authorities of the two Governments undertake to encourage settlement of claims and to facilitate payments thereof in accordance with the findings of the Board and with the applicable domestic laws.

6. Within sixty days of receipt of the Board's report, the appropriate authorities of each Government shall inform the Board of the actions taken by the claimant or the respondent pursuant to the Board's findings.

7. If the Board has not arrived at a unanimous finding, if one of the parties to the conciliation proceeding refuses to settle

in accordance with the findings of the Board, or if conciliation is not possible, the Board shall encourage the parties to submit the dispute to arbitration.

ARTICLE V

1. At the request of both parties to a dispute, a Board may arbitrate instead of conciliate a claim advanced by a national of one country against a national of the other country regarding financial loss resulting from damage to or loss of the national's fishing vessel or fishing gear, pursuant to a signed written agreement between such nationals to submit such claim to the Board for arbitration.

2. The following Articles or Paragraphs of this Agreement shall not apply to arbitration proceedings unless the arbitration agreement provides otherwise: Article I (3), Article I (4), Article II, Article III, Article IV, Article VI, Article VIII, Article IX, Article X (2), Article X (3), and Article XII.

ARTICLE VI

Each Board shall, as soon as possible after the end of a calendar year, send to the two Governments a short report concerning the claims it has handled and of the results which have been obtained.

ARTICLE VII

The appropriate authorities of the two Governments will encourage their nationals to use, in the first instance, the Board to settle claims resulting from damage to fishing vessels and fishing gear.

ARTICLE VIII

1. In considering those claims which arise subsequent to the entry into force of this Agreement, the Board shall be guided by the provisions of the rules set forth in the Annex or Annexes hereof. The Annex or Annexes form an integral part of this Agreement.

2. The two Governments shall encourage their fishermen to follow, insofar as practicable, the rules set forth in the Annex or Annexes.

3. The competent authorities of one Government may notify the competent authorities of the other Government of concentrations or probable concentrations known to them of fishing vessels or fishing gear. A competent authority receiving such notification shall take such steps as are practicable to inform vessels flying the flag of its country of such concentrations.

4. Within areas in which one of the Governments has jurisdiction over fisheries, it may make special rules and exemptions from

rules dealing with identification and marking of fishing vessels and gear, with signals to be used by fishing vessels, with the marking of nets, lines and other gear, and with rules governing the operation of vessels or gear which by reason of their size or type operate or are set only in coastal waters, provided that there shall be no discrimination in form or in fact against vessels of the other country. Before making rules and exemptions hereunder in respect to areas in which vessels of the other country operate, the Government shall inform the other Government of its intentions and consult if the other Government so wishes.

5. At the request of either Government, representatives of the two Governments shall meet to review the operation of an Annex or of any provision of an Annex and to consider proposals for revision. The provisions of an Annex may be modified at any time by mutual consent.

ARTICLE IX

In considering claims under this Agreement, the Board shall also apply:

(a) international conventions, whether general or particular, establishing rules expressly recognized by the two States, including bilateral and multilateral agreements between the two Governments dealing with fisheries and maritime matters; and

(b) international custom, as evidence of a general practice accepted as law.

ARTICLE X

1. Without prejudice to an agreement for binding arbitration under Article V and subject to Article VII, nothing in this Agreement shall preempt, prejudice, or in any other way affect judicial proceedings, or the right to institute such proceedings, or in any way prejudice or affect the substantive or procedural rights of any person, whether or not such person appears before or participates in the proceedings of the Board.

2. No claim shall be brought between the parties the substance of which has been or is being adjudicated or arbitrated, nor shall the Board continue conciliation proceedings regarding a claim in respect to which judicial proceedings are instituted. The Board may also refuse to consider a claim for other reasons.

3. The Board shall immediately terminate conciliation proceedings regarding a claim in respect to which there is a binding agreement to arbitrate.

ARTICLE XI

Each Government shall pay all the expenses, including compensation, of the members it appoints to the Board and of any technical experts it appoints, and advisers it designates. The two Governments will share equally all the administrative and operational costs of the Board. Such costs do not include expenses related to the presentation or production of evidence or the appearance of witnesses.

ARTICLE XII

At the request of either Government, representatives of the two Governments shall meet to review the operation of this Agreement and to consider proposals for revision.

ARTICLE XIII

This Agreement shall enter into force upon signature. It shall remain in force for two years, and thereafter until the

sixtieth day following the day on which one Government gives the other Government notice of termination, provided that the effect of this Agreement shall in any event continue until the conclusion of conciliation proceedings and arbitrations instituted prior to its termination, unless otherwise agreed by the two Governments.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE, in duplicate, in the English and Russian languages, both equally authentic, at Moscow this 21st day February 1973.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Donald L. McKernan

FOR THE GOVERNMENT OF THE UNION [2] OF SOVIET SOCIALIST REPUBLICS: [1]

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[1] Donald L. McKernan
[2] V. M. Kamentsev

ANNEX

MEASURES TO PREVENT FISHING CONFLICT
IN THE NORTHEASTERN PART OF THE PACIFIC OCEAN
INCLUDING THE EASTERN BERING SEA
OFF THE COAST OF THE UNITED STATES OF AMERICA

1. a. This Annex applies to the waters of the northeastern part of the Pacific Ocean including the eastern Bering Sea off the coast of the United States of America.

b. For purposes of this Annex,

"fishing vessel" means any vessel engaged in the business of catching fish;

"vessel" means any fishing vessel and any vessel engaged in the business of processing fish or providing supplies or services to fishing vessels.

2. a. Fishing vessels shall be registered and marked in order to ensure their proper identification at sea in accordance with the regulations of each Government. The competent authorities of each Government shall inform the competent authorities of the other Government of the system of registration and marking used.

b. Each fishing vessel shall carry on board an official document, issued by the competent authority of its country, showing the name, if any, and description of the vessel, its nationality, its registration letter or letters and number, and the name of the owner or of the firm or association to which it belongs.

c. Each fishing vessel shall carry a national flag in good condition to be shown at the request of the competent authorities.

d. The nationality of a fishing vessel shall not be concealed in any manner whatsoever.

3. In addition to complying with the rules relating to signals as prescribed in the International Rules for Preventing Collisions at Sea, the fishing vessels of each Government shall comply with the rules set out below in this paragraph. No other additional light signals than those provided herein shall be used. The Rules herein concerning lights shall apply in all weathers from sunset to sunrise when fishing vessels are engaged in fishing as a fleet and during such times no other lights shall be exhibited, except the lights prescribed in the International Regulations for Preventing Collisions at Sea and such lights as cannot be mistaken for the prescribed lights or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out. These lights may also be exhibited from sunrise to sunset in restricted visibility and in all other circumstances when it is deemed necessary.

The lights mentioned herein shall be placed where they can best be seen. They should be at least 3 feet (0.92 m.) apart but at a lower level than the lights prescribed in Rule 9(c) (i) and (d) of the International Regulations for Preventing Collisions at Sea 1960.[1] They shall be visible at a distance of at least 1 mile, all round the horizon as nearly as possible and their visibility shall be less than the visibility of lights exhibited in accordance with Rule 9 (b) of the above Regulations.

a. (1) Fishing vessels, when engaged in trawling, whether using demersal or pelagic gear shall exhibit:

(i) when shooting their nets:

two white lights in a vertical line one over the other;

(ii) when hauling their nets:

one white light over one red light in a vertical line one over the other;

(iii) when the net has come fast upon an obstruction:

two red lights in a vertical line one over the other.

(2) Fishing vessels engaged in drift netting may exhibit the lights prescribed in (1) above.

(3) Each fishing vessel engaged in pair trawling shall exhibit:

(i) by day: the "T" flag - "Keep clear of me. I am engaged in pair trawling", hoisted at the foremast;

[1] TIAS 5813; 16 UST 802.

(ii) by night: a searchlight shone foreward and in the direction of the other fishing vessel of the pair;

(iii) when shooting or hauling the net or when the net has come fast upon an obstruction: the lights prescribed in (1) above.

(4) The rules of this subparagraph need not be applied to fishing vessels of less than 65 feet (19.80 m.) in length. Any such exception and the areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Government likely to be concerned.

b. (1) Fishing vessels engaged in fishing with purse seines shall show two amber colored lights, in a vertical line one over the other. These lights shall be flashing intermittently about once a second in such a way that when the lower is out the upper is on and vice versa. These lights shall only be shown when the vessel's free movement is hampered by its fishing gear, warning other vessels to keep clear of it.

(2) The rule of this subparagraph need not be applied to fishing vessels of less than 85 feet (25.90 m.) in length. Any such exception and areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Government likely to be concerned.

c. No sound signals shall be used other than those prescribed by the International Regulations for Preventing Collisions at Sea and the International Code of Signals.

4. With respect to the nets, lines and other gear anchored in the sea, the fishing vessels of each Government shall comply with the rules set out below in this paragraph.

a. The ends of halibut longlines and black cod longlines, whether hooks or pots are attached to the ground line shall be fitted with a flag and a white light. The flagpole of each buoy shall have a height of at least 2 meters above the buoy.

b. Each king or tanner crab pot shall be marked by at least two brightly colored buoys approximately 50 inches (1.25 m.) in diameter, each buoy having painted on it the registration number assigned by the appropriate authorities.

5. a. Subject to compliance with the International Regulations for Prevention of Collisions at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels, or fishing gear.

b. Vessels arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose shall inform themselves of the position and extent of gear already placed in the sea and shall not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in progress.

c. No vessel shall anchor or remain on a fishing ground where fishing is in progress if it would interfere with such fishing unless required for the purpose of its own fishing operations or in consequence of accident or other circumstances beyond its control.

d. Except in cases of force majeure no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels.

e. No vessel shall use or have on board explosives intended for the catching of fish.

f. In order to prevent damage, fishing vessels engaged in trawling and other fishing vessels with gear in motion shall take all practicable steps to avoid nets and lines or other gear which is not being towed.

g. (1) When nets belonging to different fishing vessels get foul of each other, they shall not be severed without the consent of the parties concerned unless it is impossible to disengage them by other means.

(2) When fishing vessels with lines entangle their lines, the fishing vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any lines which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases in which the two preceding subparagraphs relate, nets, lines or other gear shall not under any pretext whatever, be cut, hooked, held on to or lifted up except by the fishing vessel to which they belong.

(4) When a vessel fouls or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The fishing vessel to which the gear belongs shall, at the same time, avoid any action tending to aggravate such damage.

PROTOCOL TO THE AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS
RELATING TO THE CONSIDERATION OF CLAIMS RESULTING
FROM DAMAGE TO FISHING VESSELS OR GEAR
AND MEASURES TO PREVENT FISHING CONFLICTS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering that a common understanding is desirable on the application of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, hereinafter referred to as the Agreement,

Noting the discussion of this matter during the meeting of the representatives of the two Governments in Moscow in January-February, 1973,

Have agreed to the following:

1. The Government of the United States of America and the Government of the Union of Soviet Socialist Republics agree that the two American-Soviet Fisheries Claims Boards established under the Agreement shall consider only claims arising in the northeastern Pacific Ocean.

2. The application of the Agreement may be extended to other areas at any time by mutual agreement of the two Governments.

3. The two Governments understand that the Annex attached to the Agreement contains interim rules which are subject to modification by mutual agreement. It is further understood that representatives of the two Governments shall consider more specific rules for fixed gear within six months following the signing of this Protocol.

4. The above provisions shall form an integral part of the Agreement.

5. This Protocol shall enter into force on signature, and shall remain in force during the period of validity of the Agreement, subject to the provisions of Articles XII and XIII thereof.

IN WITNESS WHEREOF the undersigned, being duly authorized for this purpose, have signed this Protocol.

DONE in Moscow, February 21, 1973, in duplicate, in English and Russian, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Donald L. McKernan

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS:

Amendment of the Agreement Relating to Prevention of Fishing Conflicts (as amended June 21, 1973)
(United States-U.S.S.R.)
February 26, 1975*

* 26 U.S.T. 167; T.I.A.S. 8022.

UNION OF SOVIET SOCIALIST REPUBLICS

Fisheries: Consideration of Claims Resulting From Damage to Fishing Vessels or Gear and Measures To Prevent Fishing Conflicts

Agreement amending the agreement of February 21, 1973, as amended.
Effected by exchange of notes
Signed at Washington February 26, 1975;
Entered into force April 1, 1975.

The Acting Chairman of the Delegation of the United States of America to the Chairman of the Delegation of the Union of Soviet Socialist Republics

FEBRUARY 26, 1975

EXCELLENCY:

I have the honor to refer to the Agreement between our two Governments relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts, signed at Moscow on February 21, 1973, and to propose that Annex II as enclosed with this note be substituted for Annex II of that Agreement as originally set forth in the Protocol of June 21, 1973.[1]

If the foregoing proposal is acceptable to Your Excellency, it is proposed that this note together with your reply shall constitute an Agreement between our two Governments which shall enter into force on April 1, 1975.

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[1] TIAS 7575, 7663; 24 UST 669, 1588.

Accept, Excellency, the renewed assurances of my highest consideration.

WILLIAM L. SULLIVAN, JR.

William L. Sullivan, Jr.
Acting Chairman of the Delegation
of the United States of America

Enclosure:
Annex II.

His Excellency
VLADIMIR M. KAMENTSEV,
Chairman of the Delegation of the
Union of Soviet Socialist Republics.

ANNEX II

MEASURES TO PREVENT FISHING CONFLICT IN THE WESTERN AREAS OF THE ATLANTIC OCEAN OFF THE COAST OF NORTH AMERICA

1. a. This Annex applies to the waters of the Atlantic Ocean off the coast of North America.

b. For purposes of this Annex,

"fishing vessel" means any vessel engaged in the business of catching fish;

"vessel" means any fishing vessel and any vessel engaged in the business of processing fish or providing supplies or services to fishing vessels.

2. a. Fishing vessels shall be registered and marked in order to ensure their proper identification at sea in accordance with the regulations of each Government. The competent authorities of each Government shall inform the competent authorities of the other Government of the system of registration and marking used.

b. Each fishing vessel shall carry on board an official document, issued by the competent authority of its country, showing the name, if any, and description of the vessel, its nationality, its registration letter or letters and number, and the name of the owner or of the firm of association to which it belongs.

c. Each fishing vessel shall carry a national flag in good condition to be shown at the request of the competent authorities.

d. The nationality of a fishing vessel shall not be concealed in any manner whatsoever.

3. a. Subject to compliance with the International Regulations for Prevention of Collisions at Sea all vessels shall conduct their opera-

tions so as not to interfere with the operations of fishing vessels, or fishing gear.

b. Vessels arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose shall inform themselves of the position and extent of gear already placed in the sea and shall not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in progress.

c. No vessel shall anchor or remain on a fishing ground where fishing is in progress if it would interfere with such fishing unless required for the purpose of its own fishing operations or in consequence of accident or other circumstances beyond its control.

d. Except in cases of force majeure no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels.

e. No vessel shall use or have on board explosives intended for the catching of fish.

f. In order to prevent damage, fishing vessels engaged in trawling and other fishing vessels with gear in motion shall take all practicable steps to avoid nets and lines or other gear which is not being towed.

g. (1) When nets belonging to different fishing vessels get foul of each other, they shall not be severed without the consent of the parties concerned unless it is impossible to disengage them by other means.

(2) When fishing vessels fishing with lines entangle their lines, the fishing vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any lines which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases to which the two preceding subparagraphs relate, nets, lines or other gear shall not, under any pretext whatever, be cut, hooked, held on to, or lifted up, except by the fishing vessel to which they belong.

(4) When a vessel fouls or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The fishing vessel to which the gear belongs shall, at the same time, avoid any action tending to aggravate such damage.

4. With respect to nets, lines and other gear anchored in the sea, fishing vessels shall comply with the rules set out below in this paragraph.

a. Gear shall be marked sufficiently to indicate its position and extent. The ends of lines to which fishing gear anchored in the sea is attached should be marked with buoys. The westernmost (meaning the half compass circle from south through west to and including north) end buoy should be fitted with two flags one above the other or one flag and a radar reflector, and the easternmost (meaning the half compass circle from north through east to and including south) end

buoy should be fitted with one flag or a radar reflector. The westernmost end buoy may be fitted with one or two white lights, and the easternmost end buoy may be fitted with one white light. On gear extending more than 1½ miles additional buoys should be placed at distances of not more than 1 mile so that no part of the gear extending 1 mile or more is left unmarked. Each additional buoy should be fitted with a flag or a radar reflector and may be fitted with one white light. The flagpole of each buoy should have a height of at least 2 meters above the buoy. Each buoy should be marked so that ownership may be determined.

b. Fishing vessels operating gear anchored in the sea shall, when they are present, notify approaching vessels of the position and extent of gear.

c. Fishing vessels using mobile gear shall:

(1) Maintain a continuous visual and radar watch for markers indicating the position and extent of gear anchored in the sea.

(2) Avoid areas where gear is known to be anchored in the sea during periods of reduced visibility and hours of darkness.

5. The American side will inform the Soviet fishing fleet, through the Chief of the joint expeditions of the Main Fishery Administration "ZAPRYBA", of the known locations of fixed fishing gear on a timely basis by transmitting daily messages by radio in the following manner:

a. The message transmitted on the first day of each month shall be a summary report containing a complete description of the fixed fishing gear located along the entire coast as of that date, without referring to earlier messages, and shall be numbered as follows:

01 01 75 (for 1st January 1975)
01 02 75 (for 1st February 1975) etc.

b. Subsequent daily messages concerning changes occurring in the locations of the fixed gear described in the first message for the current month shall be numbered in the order in which they are transmitted during that month; thus for January 1975:

01 01 75
02 01 75
— — —
31 01 75;

where the first two figures indicate the sequence number of a message during that month. The summary and daily messages shall indicate both the type and location of the fixed fishing gear.

P. SPECIAL REGIMES

1. Danish Straits

Convention for the Discontinuance of the Sound Dues (United States-Denmark), April 11, 1857*

* 11 Stat. 719; T.S. 67.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

April 11, 1857.

Preamble.

WHEREAS a convention between the United States of America and his Majesty the King of Denmark, for the discontinuance of the Sound dues, was concluded and signed by their respective plenipotentiaries at Washington, on the eleventh day of April last, which convention is word for word as follows:

The United States of America and his Majesty the King of Denmark, being desirous to terminate amicably the differences which have arisen between them in regard to the tolls levied by Denmark on American vessels and their cargoes passing through the Sound and Belts, and commonly called the Sound dues, have resolved to conclude a convention for that purpose, and have named as their plenipotentiaries, that is to say, the President of the United States, Lewis Cass, Secretary of State of the United States, and his Majesty the King of Denmark, Torben Bille, Esquire, Knight of the Dannebrog, and decorated with the Cross of Honor of the same order, his said Majesty's chargé d'affaires near the government of the United States, who, after having communicated to each other their full powers in due form, have agreed to and signed the following articles:

Negotiators.

Navigation of the Sound and Belts to be free to American vessels.

ARTICLE I. His Majesty the King of Denmark declares entire freedom of the navigation of the Sound and the Belts in favor of American vessels and their cargoes, from and forever after the day when this convention shall go into effect as hereinafter provided. And it is hereby agreed that American vessels and their cargoes, after that day, shall not be subject to any charges whatever in passing the Sound or the Belts, or to any detention in the said waters, and both governments will concur, if occasion should require it, in taking measures to prevent abuse of the free flag of the United States by the shipping of other nations which shall not have secured the same freedom and exemption from charges enjoyed by that of the United States.

Passages of Sound and Belts to be lighted and buoyed as heretofore, &c. without charge to American vessels.

ARTICLE II. His Danish Majesty further engages that the passages of the Sound and Belts shall continue to be lighted and buoyed as heretofore without any charge upon American vessels or their cargoes on passing the Sound and the Belts, and that the present establishments of Danish pilots in these waters shall continue to be maintained by Denmark. His Danish Majesty agrees to make such additions and improvements in regard to the lights, buoys, and pilot establishments in these waters as circumstances and the increasing trade of the Baltic may require. He further engages that no charge shall be made, in consequence of such additions and improvements, on American ships and their cargoes passing through the Sound and the Belts.

Masters of American vessels may employ Danish pilots, or otherwise.

It is understood, however, to be optional for the masters of American vessels either to employ, in the said waters, Danish pilots, at reasonable rates fixed by the Danish government, or to navigate their vessels without such assistance.

United States to pay to Denmark $393,011.

ARTICLE III. In consideration of the foregoing agreements and stipulation on the part of Denmark, whereby the free and unincumbered navigation of American vessels through the Sound and the Belts is forever

1858, ch. 8. *Ante*, p. 261.

secured, the United States agree to pay to the government of Denmark, once for all, the sum of seven hundred and seventeen thousand eight hundred and twenty-nine rix dollars, or its equivalent, three hundred and ninety-three thousand and eleven dollars in United States currency, at London, on the day when the said convention shall go into full effect, as herein afterwards provided.

Citizens of the United States to enjoy all further privileges granted by Denmark to commerce of any nation.

ARTICLE IV. It is further agreed that any other or further privileges, rights, or advantages which may have been, or may be, granted by Denmark to the commerce and navigation of any other nation at the Sound and Belts, or on her coasts and in her harbors, with reference to the transit by land through Danish territory of merchandise belonging to the citizens or subjects of such nation, shall also be fully extended to, and enjoyed by, the citizens of the United States, and by their vessels and property in that quarter.

Convention of April 26, 1826, except 5th article, to be again in force. Vol. viii. p. 340.

ARTICLE V. The general convention of friendship, commerce, and navigation, concluded between the United States and his Majesty the King of Denmark, on the twenty-sixth of April, 1826, and which was abrogated on the fifteenth of April, 1856, and the provisions contained in each and all of its articles, the fifth article alone excepted, shall, after the ratification of this present convention, again become binding upon the United States and Denmark; it being, however, understood, that a year's notice shall suffice for the abrogation of the stipulations of the said convention hereby renewed.

When convention to take effect.

ARTICLE VI. The present convention shall take effect as soon as the laws to carry it into operation shall be passed by the governments of the contracting parties, and the sum stipulated to be paid by the United States shall be received by, or tendered to, Denmark; and for the fulfilment of these purposes, a period not exceeding twelve months from the signing of this convention shall be allowed.

But if, in the interval, an earlier day shall be fixed upon and carried into effect for a free navigation through the Sound and Belts in favor of any other power or powers, the same shall simultaneously be extended to the vessels of the United States and their cargoes, in anticipation of the payment of the sum stipulated in Article III.; it being understood, however, that in that event the government of the United States shall also pay to that of Denmark four per cent. interest on the said sum, from the day the said immunity shall have gone into operation until the principal shall have been paid as aforesaid.

1858, ch. 8. *Ante*, p. 261.

Ratification.

ARTICLE VII. The present convention shall be duly ratified, and the exchange of ratifications shall take place in Washington within ten months from the date hereof, or sooner if practicable.

In faith whereof, the respective plenipotentiaries have signed the present convention, in duplicate, and have thereunto affixed their seals.

Signatures.

Done at Washington, this eleventh day of April, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-first.

LEWIS CASS. [L. S.]
TORBEN BILLE. [L. S.]

Exchange of ratifications.

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged in the city of Washington on the twelfth instant, by Lewis Cass, Secretary of State of the United States, and W. de Raasloff, his Danish Majesty's chargé d'affaires and consul-general in the United States, on the part of their respective governments:

Now, therefore, be it known, that I, JAMES BUCHANAN, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every clause and article 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 in the city of Washington, this thirteenth day of January, in the year of our Lord one thousand eight hundred and
[L. S.] fifty-eight, and of the independence of the United States the eighty-second.

JAMES BUCHANAN.

By the President:
LEWIS CASS, *Secretary of State.*

Declaration for the Purpose of Establishing Similar Rules of Neutrality, May 27, 1938*

* 188 L.N.T.S. 295.

[1] TRADUCTION. — TRANSLATION.

No. 4365. — DECLARATION BETWEEN DENMARK, FINLAND, ICELAND, NORWAY AND SWEDEN FOR THE PURPOSE OF ESTABLISHING SIMILAR RULES OF NEUTRALITY. SIGNED AT STOCKHOLM, MAY 27TH, 1938.

French official text communicated by the Swedish Minister for Foreign Affairs and by the Permanent Delegate a. i. *of Finland to the League of Nations. The registration of this Declaration took place May 30th,* 1938.

THE GOVERNMENTS OF DENMARK, FINLAND, ICELAND, NORWAY and SWEDEN,

Considering it to be highly desirable that, in the event of war between foreign Powers, they should all apply similar rules of neutrality,

Have drawn up, on the basis of the Declaration[2] in this matter made by Denmark, Norway and Sweden on December 21st, 1912, Rules of Neutrality, the texts of which are appended hereto, to be enacted by the said Governments, each in so far as concerns itself,

And have agreed that, should any of them desire, in the light of their own experience, to modify the said Rules, as contemplated by the Convention[3] on the Rights and Duties of Neutral Powers in Naval War, signed at The Hague on October 18th, 1907, they shall not do so without first giving, if possible, sufficient notice to the other four Governments to permit of an exchange of views in the matter.

In faith whereof the undersigned, duly authorised for the purpose by their respective Governments, have signed the present Declaration and have thereto affixed their seals.

Done at Stockholm, in five copies, the 27th day of May, 1938.

(Signed) *(L. S.)* Rickard SANDLER.

For Denmark :
(L. S.) Ove ENGELL.

For Iceland :
(L. S.) J. K. PAASIKIVI. *(L. S.)* Ove ENGELL. *(L. S.)* J. H. WOLLEBÆK.

[1] Traduit par le Secrétariat de la Société des Nations, à titre d'information.

[1] Translated by the Secretariat of the League of Nations, for information.

[2] *British and Foreign State Papers*, Vol. 106, page 916.

[3] *British and Foreign State Papers*, Vol. 100, page 448.

DENMARK.

RULES OF NEUTRALITY.

Concerning the neutrality of Denmark in the event of war between foreign Powers, the following provisions shall apply, as from the date and to the extent to be fixed by the King :

Article 1.

Belligerent warships shall be granted admission to the ports and other territorial waters of the Kingdom subject to the following exceptions, restrictions and conditions.

Article 2.

1. Belligerent warships shall not be allowed access to the port and roadstead of Copenhagen or to ports and maritime areas proclaimed to be naval ports or to form part of the protection zones of coast defence works.

2. Belligerent warships shall, further, not be allowed access to inner waters, the entrance to which is closed by submarine mines or other means of defence.

For the purposes of the present Decree, " Danish inner waters " shall be deemed to include ports, the approaches to ports, gulfs and bays, and the waters between those Danish islands, islets and reefs which are not constantly submerged, and between the said islands, islets and reefs and the mainland ; nevertheless, in those parts of the Danish territorial waters in the Kattegat, the Great and Little Belt, and the Sound which form the natural routes for traffic between the North Sea and the Baltic Sea, only the ports and approaches to ports and the roadstead of Copenhagen shall be regarded as inner waters.

3. Belligerent submarines ready for service shall be prohibited from navigating or remaining in Danish territorial waters.

The foregoing prohibition shall not apply, however, to passage without unnecessary stops through the zone of the Danish outer waters which forms part of the natural route for traffic between the North Sea and the Baltic Sea in the Kattegat, the Great and Little Belt, and the Sound, with the exception of the roadstead of Copenhagen, which, falling within the category of waters, shall be entirely closed to such passage or to submarines forced to enter prohibited waters by stress of weather or by damage, provided always that they indicate by means of an international signal their reason for entering such waters. Such submarines shall be required to leave the prohibited waters as soon as the circumstances which are the cause of their presence there have ceased. While in Danish territorial waters, submarines shall continuously fly their national flag and, save in the case of extreme necessity, shall navigate on the surface.

4. The King may in special circumstances, for the purpose of safeguarding the sovereign rights and maintaining the neutrality of the Kingdom, while at the same time observing the general principles of international law, prohibit access to Danish ports and other stated zones of Danish territorial waters other than those to which access is prohibited by the foregoing provisions.

5. The King may likewise prohibit the access to Danish ports and anchorages of any belligerent warships which may have failed to comply with the rules and regulations laid down by the competent Danish authorities, or have violated the neutrality of the Kingdom.

Article 3.

1. Privateers shall not be permitted to enter Danish ports or to remain in Danish territorial waters.

2. The armed merchant vessels of belligerents shall, if their armaments are intended for purposes other than their own defence, likewise be forbidden access to Danish ports or to remain in Danish territorial waters.

Article 4.

1. Belligerent warships shall not be permitted to remain in Danish ports and anchorages or in other Danish territorial waters for more than twenty-four hours, save in the event of their having suffered damage or run aground, or under stress of weather, or in the cases enumerated in paragraphs 3 and 4 below. In such cases, they shall leave as soon as the cause of the delay has ceased. In the case of vessels having suffered damage or run aground, the competent Danish authority shall fix such time-limit as may be deemed sufficient to repair the damage or refloat the vessel. No vessel shall, however, be permitted to prolong its stay for more than twenty-four hours if it is clear that the said vessel cannot be rendered seaworthy within a reasonable time, or if the damage was caused by an enemy act of war.

The above restrictions on the stay of vessels shall not apply to warships used exclusively for religious, scientific or humanitarian purposes, or to naval and military hospital ships.

2. Not more than three warships of a belligerent power or of several allied belligerent Powers shall be permitted to remain in a Danish port or anchorage at the same time, or, the coast having been divided into districts for the purpose, in the ports or anchorages of the same coastal district of Denmark.

3. In the event of warships belonging to both belligerents being present in a Danish port or anchorage at the same time, a period of not less than twenty-four hours shall elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the other. The order of departure shall be determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permitted.

4. No belligerent warship shall leave a Danish port or anchorage in which there is a merchant vessel flying an enemy flag within less than twenty-four hours after the departure of such merchant vessel. The competent authorities shall make such arrangements for the departure of merchant vessels that the stay of warships is not unnecessarily prolonged.

Article 5.

1. In Danish ports and anchorages belligerent warships shall only be permitted to effect such repairs as may be essential to seaworthiness, and they shall not increase their warlike strength in any manner whatsoever. In repairing damage manifestly caused by enemy acts of war, damaged vessels shall not be permitted to avail themselves of any assistance which they may have procured in Danish territory. The competent Danish authorities shall determine the nature of the repairs to be carried out. Such repairs shall be effected as rapidly as possible within the time-limit laid down in Article 4, paragraph 1.

2. Belligerent warships shall not make use of Danish ports or other Danish territorial waters to replace or augment their warlike stores or armament, or to complete their crews.

3. Belligerent warships shall only be permitted to revictual in Danish ports or anchorages to the extent necessary to bring their supplies up to the normal peace standard.

4. As regards refuelling, belligerent warships shall be subject, in Danish ports and anchorages, to the same provisions as other foreign vessels. They shall, nevertheless, only be permitted to ship sufficient fuel to enable them to reach the nearest port in their own country and in no case shall they ship more than is necessary to fill their coal bunkers, strictly so called, or their liquid fuel bunkers. After obtaining fuel in any Danish port or anchorage, they shall not be permitted to obtain further supplies in Danish ports and anchorages within a period of three months.

Article 6.

Belligerent warships shall be required to employ the officially licensed pilots in Danish territorial waters whenever the assistance of a pilot is compulsory, but otherwise they shall only be permitted to make use of the services of such pilots when in distress, in order to escape perils of the sea.

Article 7.

1. Prizes of foreign nationality shall not be brought into a Danish port or anchorage save on account of unseaworthiness, under stress of weather or for lack of fuel or provisions. Prizes brought into a Danish port or anchorage in any of the above circumstances shall leave as soon as such circumstances are at an end.

2. No prize court shall be set up by a belligerent in Danish territory or on any vessel in Danish territorial waters. The sale of prizes in a Danish port or anchorage shall likewise be prohibited.

Article 8.

1. Belligerent military aircraft, with the exception of air ambulances and aircraft carried on board warships shall not be admitted to Danish territory, save in so far as may be otherwise provided in regulations applied, or to be applied, in accordance with the general principles of international law in regard to certain spaces.

Such aircraft shall be permitted to cross, without unnecessary stops, the Danish outer territorial waters connecting the North Sea and the Baltic Sea through the Kattegat, the Great and Little Belt and the Sound, and the air space above such waters. They shall on no account traverse the Copenhagen roadstead and the air space above. In all circumstances, they shall be required, while so crossing, to keep as far as possible from the coast.

2. Aircraft carried on board belligerent warships shall not leave such vessels while in Danish territorial waters.

Article 9.

1. Belligerent warships and military aircraft shall be required to respect the sovereign rights of the Kingdom and to refrain from all acts infringing its neutrality.

2. Within the limits of Danish territory all acts of war, including the stopping, visit and search and capture of vessels and aircraft, whether neutral or of enemy nationality, shall be prohibited. Any vessel or aircraft captured within such limits shall be released immediately, together with its officers, crew and cargo.

Article 10.

The sanitary, pilot, Customs, navigation, air traffic, harbour and police regulations shall be strictly observed.

Article 11.

Belligerents shall not use Danish territory as a base for warlike operations against the enemy.

Article 12.

1. Belligerents and persons in their service shall not install or operate in Danish territory wireless-telegraph stations or any other apparatus to be used for the purpose of communication with belligerent military, naval or air forces.

2. Belligerents shall not use their mobile wireless-telegraph stations, whether belonging to their combatant forces or not, in Danish territory, for the transmission of messages, save when in distress or for the purpose of communicating with the Danish authorities through a Danish inland or coastal wireless-telegraph station or a wireless-telegraph station on board a vessel belonging to the Danish navy.

Article 13.

The observation, by any person whatsoever, either from aircraft or in any other manner in Danish territory, of the movements, operations or defence works of one belliigerent with a vew to the information of the other belligerent shall be prohibited.

Article 14.

1. Belligerents shall not establish fuel depots within the territory of the Kingdom, whether upon land or on vessels stationed in its territorial waters.

2. Vessels and aircraft cruising with the manifest purpose of furnishing fuel or other supplies to the combatant forces of the belligerents shall not ship such fuel or other supplies in Danish ports or anchorages in quantities exceeding their own requirements.

Article 15.

1. No vessel shall be fitted or armed in Danish territory for cruising or taking part in hostile operations against either of the belligerents. Nor shall any vessel intended for such uses, which has been partly or wholly adapted in Danish territory for warlike purposes, be permitted to leave such territory.

2. Aircraft equipped to carry out an attack on a belligerent or carrying apparatus or material the mounting or use of which would enable it to carry out such an attack shall not be permitted to leave Danish territory if there are grounds for presuming that it is intended for use against a belligerent Power. Any work on aircraft to prepare it for departure for the above-mentioned purpose shall likewise be prohibited.

FINLAND.

Rules of Neutrality.

Concerning the neutrality of Finland in the event of war between foreign Powers, the following provisions shall apply as from the date and to the extent to be fixed by the President of the Republic :

Article 1.

Belligerent warships shall be granted admission to the ports and other territorial waters of the Republic subject to the following exceptions, restrictions and conditions.

Article 2.

1. Belligerent warships shall not be allowed access to ports and maritime areas proclaimed to be naval ports or to form part of the protection zones of coast defence works.

2. Belligerent warships shall, further, not be allowed access to inner waters, the entrance to which is closed by submarine mines or other means of defence.

For the purposes of the present Decree, " Finnish inner waters " shall be deemed to include ports, entrances to ports, gulfs and bays, and the waters between those Finnish islands, islets and reefs which are not constantly submerged, and between the said islands, islets and reefs and the mainland.

3. Belligerent submarines ready for service shall be prohibited from navigating or remaining in Finnish territorial waters.

The foregoing prohibition shall not apply, however, to submarines forced to enter prohibited waters by stress of weather or by damage, provided always that they indicate by means of an international signal their reason for entering these waters. Such submarines shall be required to leave the prohibited waters as soon as the circumstances which are the cause of their presence there have ceased. While in Finnish territorial waters, submarines shall continuously fly their national flag and, save in the case of extreme necessity, shall navigate on the surface.

4. The President of the Republic may, in special circumstances, for the purpose of safeguarding the sovereign rights and maintaining the neutrality of the Republic, while at the same time observing the general principles of international law, prohibit access to Finnish ports and other stated zones of Finnish territorial waters other than those to which access is prohibited by the foregoing provisions.

5. The President of the Republic may likewise prohibit the access to Finnish ports and anchorages of any belligerent warships which may have failed to comply with the rules and regulations laid down by the competent Finnish authorities, or have violated the neutrality of the Republic.

Article 3.

1. Privateers shall not be permitted to enter Finnish ports or to remain in Finnish territorial waters.

2. The armed merchant vessels of belligerents shall, if their armaments are intended for purposes other than their own defence, likewise be forbidden access to Finnish ports or to remain in Finnish territorial waters.

Article 4.

1. Belligerent warships shall not be permitted to remain in Finnish ports and anchorages or in other Finnish territorial waters for more than twenty-four hours, save in the event of their having suffered damage or run aground, or under stress of weather, or in the cases enumerated in paragraphs 3 and 4 below. In such cases, they shall leave as soon as the cause of the delay has ceased. In the case of vessels having suffered damage or run aground, the competent Finnish authority shall fix such time-limit as may be deemed sufficient to repair the damage or refloat the vessel. No vessel shall, however, be permitted to prolong its stay for more than twenty-four hours if it is clear that the said vessel cannot be rendered seaworthy within a reasonable time, or if the damage was caused by an enemy act of war.

The above restrictions on the stay of vessels shall not apply to warships used exclusively for religious, scientific or humanitarian purposes, or to naval and military hospital ships.

2. Not more than three warships of a belligerent Power or of several allied belligerent Powers shall be permitted to remain in a Finnish port or anchorage at the same time or, the coast having been divided into districts for the purpose, in ports or anchorages of the same coastal district of Finland.

3. In the event of warships belonging to both belligerents being simultaneously present in a Finnish port or anchorage, a period of not less than twenty-four hours shall elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the other.

The order of departure shall be determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permitted.

4. No belligerent warship shall leave a Finnish port or anchorage in which there is a merchant vessel flying an enemy flag within less than twenty-four hours after the departure of such merchant vessel. The competent authorities shall make such arrangements for the departure of merchant vessels that the stay of warships is not unnecessarily prolonged.

Article 5.

1. In Finnish ports and anchorages belligerent warships shall only be permitted to effect such repairs as may be essential to seaworthiness, and they shall not increase their warlike strength in any manner whatsoever. In repairing damage manifestly caused by enemy acts of war, damaged vessels shall not be permitted to avail themselves of any assistance which they may have procured in Finnish territory. The competent Finnish authorities shall determine the nature of the repairs to be carried out. Such repairs shall be effected as rapidly as possible within the time-limit laid down in Article 4, paragraph 1.

2. Belligerent warships shall not make use of Finnish ports or other Finnish territorial waters to replace or augment their warlike stores or armament, or to complete their crews.

3. Belligerent warships shall only be permitted to revictual in Finnish ports or anchorages to the extent necessary to bring their supplies up to the normal peace standard.

4. As regards refuelling, belligerent warships shall be subject, in Finnish ports and anchorages, to the same provisions as other foreign vessels. They shall, nevertheless, only be permitted to ship sufficient fuel to enable them to reach the nearest port in their own country and in no case shall they ship more than is necessary to fill their coal bunkers, strictly so called, or their liquid fuel bunkers. After obtaining fuel in any Finnish port or anchorage, they shall not be permitted to obtain further supplies in Finnish ports and anchorages within a period of three months.

Article 6.

Belligerent warships shall be required to employ the officially licensed pilots in the Finnish inner waters in accordance with the rules applied, or to be applied, to warships in time of peace, but otherwise they shall only be permitted to make use of the services of such pilots when in distress, in order to escape perils of the sea.

Article 7.

1. Prizes of foreign nationality shall not be brought into a Finnish port or anchorage save on account of unseaworthiness, under stress of weather, or for lack of fuel or provisions. Prizes brought into a Finnish port or anchorage in any of the above circumstances shall leave as soon as such circumstances are at an end.

2. No prize court shall be set up by a belligerent in Finnish territory or on any vessel in Finnish territorial waters. The sale of prizes in a Finnish port or anchorage shall likewise be prohibited.

Article 8.

1. Belligerent military aircraft, with the exception of air ambulances and aircraft carried on board warships, shall not be admitted to Finnish territory save in so far as may be otherwise provided in regulations applied, or to be applied, in accordance with the general principles of international law in regard to certain spaces.

2. Aircraft carried on board belligerent warships shall not leave such vessels while in Finnish territorial waters.

Article 9.

1. Belligerent warships and military aircraft shall be required to respect the sovereign rights of the Republic and to refrain from all acts infringing its neutrality.

2. Within the limits of Finnish territory, all acts of war, including the stopping, visit and search and capture of vessels and aircraft, whether neutral or of enemy nationality, shall be prohibited. Any vessel or aircraft captured within such limit shall be released immediately, together with its officers, crew and cargo.

Article 10.

The sanitary, pilot, Customs, navigation, air traffic, harbour and police regulations shall be strictly observed.

Article 11.

Belligerents shall not use Finnish territory as a base for warlike operations against the enemy.

Article 12.

1. Belligerents and persons in their service shall not install or operate in Finnish territory wireless-telegraph stations or any other apparatus to be used for the purpose of communication with belligerent military, naval or air forces.

2. Belligerents shall not use their mobile wireless-telegraph stations, whether belonging to their combatant forces or not, in Finnish territory, for the transmission of messages, save when in distress or for the purpose of communicating with the Finnish authorities through a Finnish inland or coastal wireless-telegraph station or a wireless-telegraph station on board a vessel belonging to the Finnish navy.

Article 13.

The observations, by any person whatsoever, either from aircraft or in any other manner in Finnish territory, of the movements, operations or defence works of one belligerent with a view to the information of the other belligerent shall be prohibited.

Article 14.

1. Belligerents shall not establish fuel depots within the territory of the Republic, whether on land or on vessels stationed in its territorial waters.

2. Vessels and aircraft cruising with the manifest purpose of furnishing fuel or other supplies to the combatant forces of the belligerents shall not ship such fuel or other supplies in Finnish ports or anchorages in quantities exceeding their own requirements.

Article 15.

1. No vessel shall be fitted or armed in Finnish territory for cruising or taking part in hostile operations against either of the belligerents. Nor shall any vessel intended for such uses, which has been partly or wholly adapted in Finnish territory for warlike purposes, be permitted to leave such territory.

2. Aircraft equipped to carry out an attack on a belligerent or carrying apparatus or material the mounting or use of which would enable it to carry out such an attack shall not be permitted to leave Finnish territory if there are grounds for presuming that it is intended for use against a belligerent Power. Any work on aircraft to prepare it for departure for the above-mentioned purpose shall likewise be prohibited.

ICELAND.

Rules of Neutrality.

Concerning the neutrality of Iceland in the event of war between foreign Powers, the following provisions shall apply as from the date and to the extent to be fixed by the King :

Article 1.

Belligerent warships shall be granted admission to the ports and other territorial waters of the Kingdom subject to the following exceptions, restrictions and conditions.

Article 2.

1. Belligerent submarines ready for service shall be prohibited from navigating or remaining in Icelandic territorial waters.

The foregoing prohibition shall not apply, however, to submarines forced to enter prohibited waters, by stress of weather or by damage, provided always that they indicate by means of an international signal their reason for entering such waters. Such submarines shall be required to leave the prohibited waters as soon as the circumstances which are the cause of their presence there have ceased. While in Icelandic territorial waters, submarines shall navigate on the surface and shall continuously fly their national flag.

2. The King may, in special circumstances, for the purpose of safeguarding the sovereign rights and maintaining the neutrality of the Kingdom, while at the same time observing the general principles of international law, prohibit access to Icelandic ports and other stated zones of Icelandic territorial waters.

3. The King may likewise prohibit the access to Icelandic ports and anchorages of any belligerent warships which may have failed to comply with the rules and regulations laid down by the competent Icelandic authorities, or have violated the neutrality of the Kingdom.

Article 3.

1. Privateers shall not be permitted to enter Icelandic ports or to remain in Icelandic territorial waters.

2. The armed merchant vessels of belligerents shall, if their armaments are intended for purposes other than their own defence, likewise be forbidden access to Icelandic ports or to remain in Icelandic territorial waters.

Article 4.

1. Belligerent warships shall not be permitted to remain in Icelandic ports and anchorages or in other Icelandic territorial waters for more than twenty-four hours, save in the event of their having suffered damage or run aground, or under stress of weather, or in the cases enumerated in paragraphs 3 and 4 below. In such cases, they shall leave as soon as the cause of the delay has ceased. In the case of vessels having suffered damage or run aground, the competent Icelandic authority shall fix such time-limit as may be deemed sufficient to repair the damage or refloat

the vessel. No vessel shall, however, be permitted to prolong its stay for more than twenty-four hours if it is clear that the said vessel cannot be rendered seaworthy within a reasonable time, or if the damage was caused by an enemy act of war.

The above restrictions on the stay of vessels shall not apply to warships used exclusively for religious, scientific or humanitarian purposes, or to naval and military hospital ships.

2. Not more than three warships of a belligerent Power or of several allied belligerent Powers shall be permitted to remain in an Icelandic port or anchorage at the same time or, the coast having been divided into districts for the purpose, in ports or anchorages of the same coastal district of Iceland.

3. In the event of warships belonging to both belligerents being simultaneously present in an Icelandic port or anchorage, a period of not less than twenty-four hours shall elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the other. The order of departure shall be determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permitted.

4. No belligerent warship shall leave an Icelandic port or anchorage in which there is a merchant vessel flying an enemy flag within less than twenty-four hours after the departure of such merchant vessel. The competent authorities shall make such arrangement for the departure of merchant vessels that the stay of warships is not unnecessarily prolonged.

Article 5.

1. In Icelandic ports and anchorages belligerent warships shall only be permitted to effect such repairs as may be essential to seaworthiness, and they shall not increase their warlike strength in any manner whatsoever. In repairing damage manifestly caused by enemy acts of war, damaged vessels shall not be permitted to make use of any materials or labour which they may have procured in Icelandic territory. The competent Icelandic authorities shall determine the nature of the repairs to be carried out. Such repairs shall be effected as rapidly as possible within the time-limit laid down in Article 4, paragraph 1.

2. Belligerent warships shall not make use of Icelandic ports or other Icelandic territorial waters to replace or augment their warlike stores or armament, or to complete their crews.

3. Belligerent warships shall only be permitted to revictual in Icelandic ports or anchorages to the extent necessary to bring their supplies up to the normal peace standard.

4. As regards refuelling, belligerent warships shall be subject, in Icelandic ports and anchorages, to the same provisions as other foreign vessels. They shall, nevertheless, only be permitted to ship sufficient fuel to enable them to reach the nearest port in their own country and in no case shall they ship more than is necessary to fill their coal bunkers, strictly so called, or their liquid fuel bunkers. After obtaining fuel in any Icelandic port or anchorage, they shall not be permitted to obtain further supplies in Icelandic ports and anchorages within a period of three months.

Article 6.

Belligerent warships shall be required to employ the officially licensed pilots in Icelandic territorial waters whenever the assistance of a pilot is compulsory, but otherwise they shall only be permitted to make use of the services of such pilots when in distress, in order to escape perils of the sea.

Article 7.

1. Prizes of foreign nationality shall not be brought into an Icelandic port or anchorage save on account of unseaworthiness, under stress of weather, or for lack of fuel or provisions. Prizes

brought into an Icelandic port or anchorage in any of the above circumstances shall leave as soon as such circumstances are at an end.

2. No prize court shall be set up by a belligerent in Icelandic territory or on any vessel in Icelandic territorial waters. The sale of prizes in an Icelandic port or anchorage shall likewise be prohibited.

Article 8.

1. Belligerent military aircraft, with the exception of air ambulances and aircraft carried on board warships, shall not be admitted to Icelandic territory save in so far as may be otherwise provided in regulations applied, or to be applied, in accordance with the general principles of international law in regard to certain spaces.

2. Aircraft carried on board belligerent warships shall not leave such vessels while in Icelandic territorial waters.

Article 9.

1. Belligerent warships and military aircraft shall be required to respect the sovereign rights of the Kingdom and to refrain from all acts infringing its neutrality.

2. Within the limits of Icelandic territory all acts of war, including the stopping, visit and search and capture of vessels and aircraft, whether neutral or of enemy nationality, shall be prohibited. Any vessel or aircraft captured within such limit shall be released immediately, together with its officers, crew and cargo.

Article 10.

The sanitary, pilot, Customs, navigation, air traffic, harbour and police regulations shall be strictly observed.

Article 11.

Belligerents shall not use Icelandic territory as a base for warlike operations against the enemy.

Article 12.

1. Belligerents and persons in their service shall not install or operate in Icelandic territory wireless-telegraph stations or any other apparatus to be used for the purpose of communication with belligerent military, naval or air forces.

2. Belligerents shall not use their mobile wireless-telegraph stations, whether belonging to their combatant forces or not, in Icelandic territory for the transmission of messages, save when in distress or for the purpose of communicating with the Icelandic authorities through an Icelandic wireless-telegraph station on land or on board a vessel used by the Icelandic police.

Article [13.

The observation, by any person whatsoever, either from aircraft or in any other manner in Icelandic territory, of the movements, operations or defence works of one belligerent with a view to the information of the other belligerent shall be prohibited.

Article 14.

1. Belligerents shall not establish fuel depots within the territory of the Kingdom, whether on land or on vessels stationed in its territorial waters.

2. Vessels and aircraft cruising with the manifest purpose of furnishing fuel or other supplies to the combatant forces of the belligerants shall not ship such fuel or other supplies in Icelandic ports or anchorages in quantities exceeding their own requirements.

Article 15.

1. No vessel shall be fitted or armed in Icelandic territory for cruising or taking part in hostile operations against either of the belligerents. Nor shall any vessel intended for such uses, which has been partly or wholly adapted in Icelandic territory for warlike purposes, be permitted to leave such territory.

2. Aircraft equipped to carry out an attack on a belligerent, or carrying apparatus or material the mounting or use of which would enable it to carry out such an attack, shall not be permitted to leave Icelandic territory if there are grounds for presuming that it is intended for use against a belligerent Power. Any work on aircraft to prepare it for departure for the above-mentioned purpose shall likewise be prohibited.

NORWAY.

Rules of Neutrality.

Concerning the neutrality of Norway in the event of war between foreign Powers, the following provisions shall apply as from the date and to the extent to be fixed by the King :

Article 1.

Belligerent warships shall be granted admission to the ports and other territorial waters of the Kingdom subject to the following exceptions, restrictions and conditions.

Article 2.

1. Belligerent warships shall not be allowed access to ports and maritime areas proclaimed to be naval ports or to form part of the protection zones of coast defence works.

2. Belligerent warships shall, further, not be allowed access to inner waters the entrance to which is closed by submarine mines or other means of defence.

For the purpose of the present Decree, " Norwegian inner waters " shall be deemed to include ports, the approaches to ports, gulfs and bays, and the waters between those Norwegian islands, islets and reefs which are not constantly submerged, and between the said islands, islets and reefs and the mainland.

3. Belligerent submarines ready for service shall be prohibited from navigating or remaining in Norwegian territorial waters.

The foregoing prohibition shall not apply, however, to submarines forced to enter prohibited waters by stress of weather or by damage, provided always that they indicate by means of an international signal their reason for entering such waters. Such submarines shall be required to leave the prohibited waters as soon as the circumstances which are the cause of their presence there have ceased. While in Norwegian territorial waters, submarines shall continuously fly their national flag and, save in the case of extreme necessity, shall navigate on the surface.

4. The King may, in special circumstances, for the purpose of safeguarding the sovereign rights and maintaining the neutrality of the Kingdom while at the same time observing the general principles of international law, prohibit access to Norwegian ports and other stated zones of Norwegian territorial waters other than those to which access is prohibited by the foregoing provisions.

5. The King may likewise prohibit the access to Norwegian ports and anchorages of any belligerent warships which may have failed to comply with the rules and regulations laid down by the competent Norwegian authorities or have violated the neutrality of the Kingdom.

Article 3.

1. Privateers shall not be permitted to enter Norwegian ports or Norwegian territorial waters.

2. The armed merchant vessels of belligerents shall, if their armaments are intended for purposes other than their own defence, likewise be forbidden access to Norwegian ports or Norwegian territorial waters.

Article 4.

1. Belligerent warships shall not be permitted to remain in Norwegian ports and anchorages, or in other Norwegian territorial waters, for more than twenty-four hours, save in the event of their having suffered damage or run aground, or under stress of weather, or in the cases enumerated in paragraphs 3 and 4 below. In such cases, they shall leave as soon as the cause of the delay has ceased. In the case of vessels having suffered damage or run aground, the competent Norwegian authority shall fix such time-limit as may be deemed sufficient to repair the damage or refloat the vessel. No vessel shall, however, be permitted to prolong its stay for more than twenty-four hours if it is clear that the said vessel cannot be rendered seaworthy within a reasonable time or if the damage was caused by an enemy act of war.

The above restrictions on the stay of vessels shall not apply to warships used exclusively for religious, scientific or humanitarian purposes, or to naval and military hospital ships.

2. Not more than three warships of a belligerent Power or of several allied belligerent Powers shall be permitted to remain in a Norwegian port or anchorage at the same time or, the coast having been divided into districts for the purpose, in ports or anchorages of the same coastal district of Norway.

3. In the event of warships belonging to both belligerents being simultaneously present in a Norwegian port or anchorage, a period of not less than twenty-four hours shall elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the other. The order of departure shall be determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permitted.

4. No belligerant warship shall leave a Norwegian port or anchorage in which there is a merchant vessel flying an enemy flag within less than twenty-four hours after the departure of such merchant vessel. The competent authorities shall make such arrangements for the departure of merchant vessels that the stay of warships shall not be unnecessarily prolonged.

Article 5.

1. In Norwegian ports and anchorages, belligerent warships shall only be permitted to effect such repairs as may be essential to seaworthiness, and they shall not increase their warlike strength in any manner whatsoever. In repairing damage manifestly caused by enemy acts of war, damaged vessels shall not be permitted to avail themselves of any assistance which they may have procured in Norwegian territory. The competent Norwegian authorities shall determine the nature of the repairs to be carried out. Such repairs shall be effected as rapidly as possible within the time-limit laid down in Article 4, paragraph 1.

2. Belligerent warships shall not make use of Norwegian ports or other Norwegian territorial waters to replace or augment their warlike stores or armament, or to complete their crews.

3. Belligerent warships shall only be permitted to revictual in Norwegian ports or anchorages to the extent necessary to bring their supplies up to the normal peace standard.

4. As regards refuelling, belligerent warships shall be subject, in Norwegian ports and anchorages, to the same provisions as other foreign vessels. They shall, nevertheless, only be permitted to ship sufficient fuel to enable them to reach the nearest port in their own country and in no case shall they ship more than is necessary to fill their coal bunkers, strictly so called, or their liquid fuel bunkers. After obtaining fuel in any Norwegian port or anchorage, they shall not be permitted to obtain further supplies in Norwegian ports and anchorages within a period of three months.

Article 6.

Belligerent warships shall be required to employ the officially licensed pilots in Norwegian territorial waters whenever the assistance of a pilot is compulsory, but otherwise they shall only be permitted to make use of the services of such pilot when in distress, in order to escape perils of the sea.

Article 7.

1. Prizes of foreign nationality shall not be brought into a Norwegian port or anchorage save on account of unseaworthiness, under stress of weather, or for lack of fuel or provisions. Prizes brought into a Norwegian port or anchorage in any of the above circumstances shall leave as soon as such circumstances are at an end.

2. No prize court shall be set up by a belligerent in Norwegian territory or on any vessel in Norwegian territorial waters. The sale of prizes in a Norwegian port or anchorage shall likewise be prohibited.

Article 8.

1. Belligerent military aircraft, with the exception of air ambulances and aircraft carried on board warships, shall not be admitted to Norwegian territory save in so far as may be otherwise provided in regulations applied, or to be applied, in accordance with the general principles of international law in regard to certain spaces.

2. Aircraft carried on board belligerent warships shall not leave such vessels while in Norwegian territorial waters.

Article 9.

1. Belligerent warships and military aircraft shall be required to respect the sovereign rights of the Kingdom and to refrain from all acts infringing its neutrality.

2. Within the limits of Norwegian territory all acts of war, including the stopping, visit and search and capture of vessels and aircraft, whether neutral or of enemy nationality, shall be prohibited. Any vessel or aircraft captured within such limit shall be released immediately, together with its officers, crew and cargo.

Article 10.

The sanitary, pilot, Customs, navigation, air traffic, harbour and police regulations shall be strictly observed.

Article 11.

Belligerents shall not use Norwegian territory as a base for warlike operations against the enemy.

Article 12.

1. Belligerents and persons in their service shall not install or operate in Norwegian territory wireless-telegraph stations or any other apparatus to be used for the purpose of communication with belligerent military, naval or air forces.

2. Belligerents shall not use their mobile wireless-telegraph stations, whether belonging to their combatant forces or not, in Norwegian territory for the transmission of messages, save when in distress or for the purpose of communicating with the Norwegian authorities through a Norwegian inland or coastal wireless-telegraph station or a wireless-telegraph station on board a vessel belonging to the Norwegian navy.

Article 13.

The observation, by any person whatsoever, either from aircraft or in any other manner in Norwegian territory, of the movements, operations or defence works of one belligerent with a view to the information of the other belligerent shall be prohibited.

Article 14.

1. Belligerents shall not establish fuel depots within the territory of the Kingdom, whether upon land or on vessels stationed in its territorial waters.

2. Vessels and aircraft cruising with the manifest purpose of furnishing fuel or other supplies to the combatant forces of the belligerents shall not ship such fuel or other supplies in Norwegian ports or anchorages in quantities exceeding their own requirements.

Article 15.

1. No vessel shall be fitted or armed in Norwegian territory for cruising or taking part in hostile operations against either of the belligerents. Nor shall any vessel intended for such uses, which has been partly or wholly adapted in Norwegian territory for warlike purposes, be permitted to leave such territory.

2. Aircraft equipped to carry out an attack on a belligerent, or carrying apparatus or material the mounting or use of which would enable it to carry out such an attack, shall not be permitted to leave Norwegian territory if there are grounds for presuming that it is intended for use against a belligerent Power. Any work on aircraft to prepare it for departure for the above-mentioned purpose shall likewise be prohibited.

SWEDEN.

Rules of Neutrality.

Concerning the neutrality of Sweden in the event of war between foreign Powers, the following provisions shall apply as from the date and to the extent to be fixed by the King :

Article 1.

Belligerent warships shall be granted admission to the ports and other territorial waters of the Kingdom subject to the following exceptions, restrictions and conditions. [1]

[1] Swedish territory shall be deemed to mean all Swedish land and waters, and the air space above. Seawards, Swedish territory extends to a distance of 4 nautical miles, or 7,408 metres, from the land or lines constituting the seaward limit of the inner waters. See the Customs Regulations of October 7th, 1927, Article 1, and the Royal Rescript of May 4th, 1934, fixing the limits of the Swedish Customs zone, with the maps relating thereto.

Article 2.

1. Belligerent warships shall not be allowed access to ports and maritime areas proclaimed to be naval ports or to form part of the protection zones of coast defence works.

2. Belligerent warships shall, further, not be allowed access to inner waters the entrance to which is closed by submarine mines or other means of defence.

For the purpose of the present Decree, " Swedish inner waters " shall be deemed to include ports, the approaches to ports, gulfs and bays, and the waters between those Swedish islands, islets and reefs which are not constantly submerged, and between the said islands, islets and reefs and the mainland ; nevertheless, in the Sound to the north of the parallel of latitude drawn through the Klagshamn lighthouse, only the ports and approaches to ports shall be regarded as inner waters.

3. Belligerent submarines ready for service shall be prohibited from navigating or remaining in Swedish territorial waters.

The foregoing prohibition shall not apply, however, to passage without unnecessary stops through the zone of the Swedish outer waters in the Sound bounded to the North by a line drawn from Kullen to Gilbjerghoved, and to the South by a line drawn from Falsterbo Point to Stevn lighthouse, or to submarines forced to enter prohibited waters by stress of weather or by damage, provided always that they indicate by means of an international signal their reason for entering such waters. Such submarines shall be required to leave the prohibited waters as soon as the circumstances which are the cause of their presence there have ceased. While in Swedish territorial waters, submarines shall continuously fly their national flag and, save in the case of imperative necessity, shall navigate on the surface.

4. The King may, in special circumstances, for the purpose of safeguarding the sovereign rights and maintaining the neutrality of the Kingdom while at the same time observing the general principles of international law, prohibit access to Swedish ports and other stated zones of Swedish territorial waters other than those to which access is prohibited by the foregoing provisions.

5. The King may likewise prohibit the access to Swedish ports and anchorages of any belligerent warships which may have failed to comply with the rules and regulations laid down by the competent Swedish authorities or have violated the neutrality of the Kingdom.

Article 3.

1. Privateers shall not be permitted to enter Swedish ports or to remain in Swedish territorial waters.

2. The armed merchant vessels of belligerents shall, if their armaments are intended for purposes other than their own defence, likewise be forbidden access to Swedish ports or to remain in Swedish territorial waters.

Article 4.

1. Belligerent warships shall not be permitted to remain in Swedish ports and anchorages or in other Swedish territorial waters for more than twenty-four hours, save in the event of their having suffered damage or run aground, or under stress of weather, or in the cases enumerated in paragraphs 3 and 4 below. In such cases, they shall leave as soon as the cause of the delay has ceased. In the case of vessels having suffered damage or run aground, the competent Swedish authority shall fix such time-limit as may be deemed sufficient to repair the damage or refloat the vessel. No vessel shall, however, be permitted to prolong its stay for more than twenty-four hours if it is clear that the said vessel cannot be rendered seaworthy within a reasonable time, or if the damage was caused by an enemy act of war.

The above restrictions on the stay of vessels shall not apply to warships used exclusively for religious, scientific or humanitarian purposes, or to naval and military hospital ships.

2. Not more than three warships of a belligerent Power or of several allied belligerent Powers shall be permitted to remain in a Swedish port or anchorage at the same time or, the coast having been divided into districts for the purpose, in the ports or anchorages of the same coastal district of Sweden.

3. In the event of warships belonging to both belligerents being simultaneously present in a Swedish port or anchorage, a period of not less than twenty-four hours shall elapse between the departure of a ship belonging to one belligerent and the departure of a ship belonging to the other. The order of departure shall be determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permitted.

4. No belligerent warship shall leave a Swedish port or anchorage in which there is a merchant vessel flying an enemy flag within less than twenty-four hours after the departure of such merchant vessel. The competent authorities shall make such arrangements for the departure of merchant vessels that the stay of warships is not unnecessarily prolonged.

Article 5.

1. In Swedish ports and anchorages, belligerent warships shall only be permitted to effect such repairs as may be essential to seaworthiness, and they shall not increase their warlike strength in any manner whatsoever. In repairing damage manifestly caused by enemy acts of war, damaged vessels shall not be permitted to avail themselves of any assistance they may have procured in Swedish territory. The competent Swedish authorities shall determine the nature of the repairs to be carried out. Such repairs shall be effected as rapidly as possible within the time-limit laid down in Article 4, paragraph 1.

2. Belligerent warships shall not make use of Swedish ports or other Swedish territorial waters to replace or augment their warlike stores or armament or to complete their crews.

3. Belligerent warships shall only be permitted to revictual in Swedish ports or anchorages to the extent necessary to bring their supplies up to the normal peace standard.

4. As regards refuelling, belligerent warships shall be subject, in Swedish ports and anchorages, to the same provisions as other foreign vessels. They shall, nevertheless, only be permitted to ship sufficient fuel to enable them to reach the nearest port in their own country and in no case shall they ship more than is necessary to fill their coal bunkers, strictly so called, or their liquid fuel bunkers. After obtaining fuel in any Swedish port or anchorage, they shall not be permitted to obtain further supplies in Swedish ports and anchorages within a period of three months.

Article 6.

Belligerent warships shall be required to employ the officially licensed pilots in the Swedish inner waters in accordance with the rules applied, or to be applied, to warships in time of peace, but otherwise they shall only be permitted to make use of the services of such pilots when in distress, in order to escape perils of the sea.

Article 7.

1. Prizes of foreign nationality shall not be brought into a Swedish port or anchorage save on account of unseaworthiness, under stress of weather or for lack of fuel or provisions. Prizes

brought into a Swedish port or anchorage in any of the above circumstances shall leave as soon as such circumstances are at an end.

2. No prize court shall be set up by a belligerent in Swedish territory or on any vessel in Swedish territorial waters. The sale of prizes in a Swedish port or anchorage shall likewise be prohibited.

Article 8.

1. Belligerent military aircraft, with the exception of air ambulances and aircraft carried on board warships, shall not be admitted to Swedish territory save in so far as may be otherwise provided in regulations applied, or to be applied, in accordance with the general principles of international law in regard to certain spaces.

In the Sound, such aircraft shall be permitted to cross, without unnecessary stops, the outer territorial waters of Sweden, bounded as stated in Article 2, paragraph 3, and the air space above. While so crossing, they shall be required to keep as far as possible from the coast.

2. Aircraft carried on board belligerent warships shall not leave such vessels while in Swedish territorial waters.

Article 9.

1. Belligerent warships and military aircraft shall be required to respect the sovereign rights of the Kingdom and to refrain from all acts infringing its neutrality.

2. Within the limits of Swedish territory all acts of war, including the stopping, visit and search and capture of vessels and aircraft, whether neutral or of enemy nationality, shall be prohibited. Any vessel or aircraft captured within such limit shall be released immediately, together with its officers, crew and cargo.

Article 10.

The sanitary, pilot, Customs, navigation, air traffic, harbour and police regulations shall be strictly observed.

Article 11.

Belligerents shall not use Swedish territory as a base for warlike operations against the enemy.

Article 12.

1. Belligerents and persons in their service shall not install or operate in Swedish territory wireless-telegraph stations or any other apparatus to be used for the purpose of communication with belligerent military, naval or air forces.

2. Belligerents shall not use their mobile wireless-telegraph stations, whether belonging to their combatant forces or not, in Swedish territory for the transmission of messages, save when in distress or for the purpose of communicating with the Swedish authorities through a Swedish inland or coastal wireless-telegraph station or a wireless-telegraph station on board a vessel used by the Swedish navy.

Article 13.

The observation, by any person whatsoever, either from aircraft or in any other manner in Swedish territory, of the movements, operations or defence works of one belligerent with a view to the information of the other belligerent shall be prohibited.

Article 14.

1. Belligerents shall not establish fuel depots within the territory of the Kingdom, whether upon land or on vessels stationed in its territorial waters.

2. Vessels and aircraft cruising with the manifest purpose of furnishing fuel or other supplies to the combatant forces of the belligerents shall not ship such fuel or other supplies in Swedish ports or anchorages in quantities exceeding their own requirements.

Article 15.

1. No vessel shall be fitted or armed in Swedish territory for cruising or taking part in hostile operations against either of the belligerents. Nor shall any vessel intended for such uses, which has been partly or wholly adapted in Swedish territory for warlike purposes, be permitted to leave such territory.

2. Aircraft equipped to carry out an attack on a belligerent, or carrying apparatus or material the mounting or use of which would enable it to carry out such an attack, shall not be permitted to leave Swedish territory if there are grounds for presuming that it is intended for use against a belligerent Power. Any work on aircraft to prepare it for departure for the above-mentioned purpose shall likewise be prohibited.

2. Kiel Canal

Treaty of Versailles (Part XII, Section VI,
Articles 380-86),
June 28, 1919*

* 2 Bevans 43.

SECTION VI

Clauses Relating to the Kiel Canal

ARTICLE 380

The Kiel Canal and its approaches shall be maintained free and open to the vessels of commerce and of war of all nations at peace with Germany on terms of entire equality.

ARTICLE 381

The nationals, property and vessels of all Powers shall, in respect of charges, facilities, and in all other respects, be treated on a footing of perfect equality in the use of the Canal, no distinction being made to the detriment of nationals, property and vessels of any Power between them and the nationals, property and vessels of Germany or of the most favoured nation.

No impediment shall be placed on the movement of persons or vessels other than those arising out of police, customs, sanitary, emigration or immigration regulations and those relating to the import or export of prohibited goods. Such regulations must be reasonable and uniform and must not unnecessarily impede traffic.

ARTICLE 382

Only such charges may be levied on vessels using the Canal or its approaches as are intended to cover in an equitable manner the cost of maintaining in a navigable condition, or of improving, the Canal or its approaches, or to meet expenses incurred in the interests of navigation. The schedule of such charges shall be calculated on the basis of such expenses, and shall be posted up in the ports.

These charges shall be levied in such a manner as to render any detailed examination of cargoes unnecessary, except in the case of suspected fraud or contravention.

ARTICLE 383

Goods in transit may be placed under seal or in the custody of customs agents; the loading and unloading of goods, and the embarkation and dis-

embarkation of passengers, shall only take place in the ports specified by Germany.

ARTICLE 384

No charges of any kind other than those provided for in the present Treaty shall be levied along the course or at the approaches of the Kiel Canal.

ARTICLE 385

Germany shall be bound to take suitable measures to remove any obstacle or danger to navigation, and to ensure the maintenance of good conditions of navigation. She shall not undertake any works of a nature to impede navigation on the Canal or its approaches.

ARTICLE 386

In the event of violation of any of the conditions of Articles 380 to 386, or of disputes as to the interpretation of these Articles, any interested Power can appeal to the jurisdiction instituted for the purpose by the League of Nations.

In order to avoid reference of small questions to the League of Nations, Germany will establish a local authority at Kiel qualified to deal with disputes in the first instance and to give satisfaction so far as possible to complaints which may be presented through the consular representatives of the interested Powers.

3. Bosphorous, Dardanelles and the Black Sea

Treaty of Lausanne, July 24, 1923*

* 28 L.N.T.S. 117.

Traduction.—Translation.*

No. 702.—Convention(1) relating to the Régime of the Straits, signed at Lausanne, July 24, 1923.

Official French text communicated by the French Delegation at the Fifth Assembly of the League of Nations and by the Bulgarian Chargé d'Affaires at Berne. The registration of this Convention took place September 5, 1924.

THE BRITISH EMPIRE, FRANCE, ITALY, JAPAN, BULGARIA, GREECE, ROUMANIA, RUSSIA, the SERB-CROAT-SLOVENE STATE and TURKEY, being desirous of ensuring in the Straits freedom of transit and navigation between the Mediterranean Sea and the Black Sea for all nations, in accordance with the principle laid down in Article 23 of the Treaty of Peace signed this day,

And considering that the maintenance of that freedom is necessary to the general peace and the commerce of the world,

Have decided to conclude a Convention to this effect, and have appointed as their respective Plenipotentiaries:—

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA:

The Right Honourable Sir Horace George Montagu Rumbold, Baronet, G.C.M.G., High Commissioner at Constantinople;

THE PRESIDENT OF THE FRENCH REPUBLIC:

General Maurice Pellé, Ambassador of France, High Commissioner of the Republic in the East, Grand Officer of the National Order of the Legion of Honour;

HIS MAJESTY THE KING OF ITALY:

The Honourable Marquis Camillo Garroni, Senator of the Kingdom, Ambassador of Italy, High Commissioner at Constantinople, Grand Cross of the Orders of Saints Maurice and Lazarus, and of the Crown of Italy;

M. Giulio Cesare Montagna, Envoy Extraordinary and Minister Plenipotentiary at Athens, Commander of the Order of Saints Maurice and Lazarus, Grand Officer of the Crown of Italy;

HIS MAJESTY THE EMPEROR OF JAPAN:

Mr. Kentaro Otchiai, Jusammi, First Class of the Order of the Rising Sun, Ambassador Extraordinary and Plenipotentiary at Rome;

* Communiquée par le Ministère des Affaires étrangères de Sa Majesté britannique.

* Communicated by His Britannic Majesty's Foreign Office.

(1) The deposit of the instruments of ratification took place by Greece, February 11, 1924; by Turkey, March 31, 1924; by Bulgaria, May 24, 1924; by the British Empire, Italy and Japan, August 6, 1924.

HIS MAJESTY THE KING OF THE BULGARIANS :

M. Bogdan Morphof, formerly Minister of Railways, Posts and Telegraphs;

M. Dimitri Stanciof, Doctor of Law, Envoy Extraordinary and Minister Plenipotentiary at London, Grand Cross of the Order of Saint Alexander;

HIS MAJESTY THE KING OF THE HELLENES :

M. Eleftherios K. Veniselos, formerly President of the Council of Ministers, Grand Cross of the Order of the Saviour;

M. Demetrios Caclamanos, Minister Plenipotentiary at London, Commander of the Order of the Saviour;

HIS MAJESTY THE KING OF ROUMANIA :

M. Constantine I. Diamandy, Minister Plenipotentiary;

M. Constantine Contzesco, Minister Plenipotentiary;

RUSSIA :

M. Nicolas Ivanovitch Iordanski;

HIS MAJESTY THE KING OF THE SERBS, THE CROATS AND THE SLOVENES :

Dr. Miloutine Yovanovitch, Envoy Extraordinary and Minister Plenipotentiary at Berne;

THE GOVERNMENT OF THE GRAND NATIONAL ASSEMBLY OF TURKEY :

Ismet Pasha, Minister for Foreign Affairs, Deputy for Adrianople;

Dr. Riza Nur Bey, Minister for Health and for Public Assistance, Deputy for Sinope;

Hassan Bey, formerly Minister, Deputy for Trebizond;

Who, having produced their full powers, found in good and due form, have agreed as follows :—

Article 1.

The High Contracting Parties agree to recognise and declare the principle of freedom of transit and of navigation by sea and by air in the Strait of the Dardanelles, the Sea of Marmora and the Bosphorus, hereinafter comprised under the general term of the "Straits."

Article 2.

The transit and navigation of commercial vessels and aircraft, and of war vessels and aircraft in the Straits in time of peace and in time of war shall henceforth be regulated by the provisions of the attached Annex.

ANNEX.

Rules for the Passage of Commercial Vessels and Aircraft, and of War Vessels and Aircraft through the Straits.

1.

Merchant Vessels, including Hospital Ships, Yachts and Fishing Vessels and non-Military Aircraft.

(a.) *In Time of Peace.*

Complete freedom of navigation and passage by day and by night under any flag and with any kind of cargo, without any formalities, or tax, or charge whatever (subject, however, to international sanitary provisions) unless for services directly rendered, such as pilotage, light, towage or other similar charges, and without prejudice to the rights exercised in this respect by the services and undertakings now operating under concessions granted by the Turkish Government.

To facilitate the collection of these dues, merchant vessels passing the Straits will communicate to stations appointed by the Turkish Government their name, nationality, tonnage and destination.

Pilotage remains optional.

(b.) *In Time of War, Turkey being Neutral.*

Complete freedom of navigation and passage by day and by night under the same conditions as above. The duties and rights of Turkey as a neutral Power cannot authorise her to take any measures liable to interfere with navigation through the Straits, the waters of which, and the air above which, must remain entirely free in time of war, Turkey being neutral just as in time of peace.

Pilotage remains optional.

(c.) *In Time of War, Turkey being a Belligerent.*

Freedom of navigation for neutral vessels and neutral non-military aircraft, if the vessel or aircraft in question does not assist the enemy, particularly by carrying contraband, troops or enemy nationals. Turkey will have the right to visit and search such vessels and aircraft, and for this purpose aircraft are to alight on the ground or on the sea in such areas as are specified and prepared for this purpose by Turkey. The rights of Turkey to apply to enemy vessels the measures allowed by international law are not affected.

Turkey will have full power to take such measures as she may consider necessary to prevent enemy vessels from using the Straits. These measures, however, are not to be of such a nature as to prevent the free passage of neutral vessels, and Turkey agrees to provide such vessels with either the necessary instructions or pilots for the above purpose.

2.

Warships, including Fleet Auxiliaries, Troopships, Aircraft Carriers and Military Aircraft.

(a) *In Time of Peace.*

Complete freedom of passage by day and by night under any flag, without any formalities, or tax, or charge whatever, but subject to the following restrictions as to the total force:—

The maximum force which any one Power may send through the Straits into the Black Sea is not to be greater than that of the most powerful fleet of the littoral Powers of the Black Sea existing in that sea at the time of passage; but with the proviso that the Powers reserve to themselves the right to send into the Black Sea, at all times and under all circumstances, a force of not more than three ships, of which no individual ship shall exceed 10,000 tons.

Turkey has no responsibility in regard to the number of war vessels which pass through the Straits.

In order to enable the above rule to be observed, the Straits Commission provided for in Article 10 will, on the 1st January and the 1st July of each year, enquire of each Black Sea littoral Power the number of each of the following classes of vessel which such Power possesses in the Black Sea: Battle-ships, battle-cruisers, aircraft-carriers, cruisers, destroyers, submarines, or other types of vessels as well as naval aircraft; distinguishing between the ships which are in active commission and the ships with reduced complements, the ships in reserve and the ships undergoing repairs or alterations.

The Straits Commission will then inform the Powers concerned that the strongest naval force in the Black Sea comprises: Battleships, battle-cruisers, aircraft carriers, cruisers, destroyers, submarines, aircraft and units of other types which may exist. The Straits Commission will also immediately inform the Powers concerned when, owing to the passage into or out of the Black Sea of any ship of the strongest Black Sea force, any alteration in that force has taken place.

The naval force that may be sent through the Straits into the Black Sea will be calculated on the number and type of the ships of war in active commission only.

(b) *In Time of War, Turkey being Neutral.*

Complete freedom of passage by day and by night under any flag, without any formalities, or tax, or charge whatever, under the same limitations as in paragraph 2 (*a*).

However, these limitations will not be applicable to any belligerent Power to the prejudice of its belligerent rights in the Black Sea.

The rights and duties of Turkey as a neutral Power cannot authorise her to take any measures liable to interfere with navigation through the Straits, the waters of which, and the air above which, must remain entirely free in time of war, Turkey being neutral, just as in time of peace.

Warships and military aircraft of belligerents will be forbidden to make any capture, to exercise the right of visit and search, or to carry out any other hostile act in the Straits.

As regards revictualling and carrying out repairs, war vessels will be subject to the terms of the Thirteenth Hague Convention (1) of 1907, dealing with maritime neutrality.

Military aircraft will receive in the Straits similar treatment to that accorded under the Thirteenth Hague Convention (1) of 1907 to warships, pending the conclusion of an international Convention establishing the rules of neutrality for aircraft.

(c) *In Time of War, Turkey being Belligerent.*

Complete freedom of passage for neutral warships, without any formalities, or tax, or charge whatever, but under the same limitations as in paragraph 2 (*a*)

The measures taken by Turkey to prevent enemy ships and aircraft from using the Straits are not to be of such a nature as to prevent the free passage of neutral ships and aircraft, and Turkey agrees to provide the said ships and aircraft with either the necessary instructions or pilots for the above purpose.

Neutral military aircraft will make the passage of the Straits at their own risk and peril, and will submit to investigation as to their character. For this purpose aircraft are to alight on the ground or on the sea in such areas as are specified and prepared for this purpose by Turkey.

3.

(*a.*) The passage of the Straits by submarines of Powers at peace with Turkey must be made on the surface.

(*b.*) The officer in command of a foreign naval force, whether coming from the Mediterranean or the Black Sea, will communicate, without being compelled to stop, to a signal station at the entrance to the Dardanelles or the Bosphorus, the number and the names of vessels under his orders which are entering the Straits.

These signal stations shall be notified from time to time by Turkey; until such signal stations are notified, the freedom of passage for foreign war vessels in the Straits shall not thereby be prejudiced, nor shall their entry into the Straits be for this reason delayed.

(*c*) The right of military and non-military aircraft to fly over the Straits, under the conditions laid down in the present rules, necessitates for aircraft—

(i) Freedom to fly over a strip of territory of five kilometres wide on each side of the narrow parts of the Straits;

(ii) Liberty, in the event of a forced landing, to alight on the coast or on the sea in the territorial waters of Turkey.

(1) British and Foreign State Papers, Vol. 100, page 488.

4.

Limitation of Time of Transit for Warships.

In no event shall warships in transit through the Straits, except in the event of damage or peril of the sea, remain therein beyond the time which is necessary for them to effect their passage, including the time of anchorage during the night if necessary for safety of navigation.

5.

Stay in the Ports of the Straits and of the Black Sea.

(*a*) Paragraphs 1, 2 and 3 of this Annex apply to the passage of vessels, warships and aircraft through and over the Straits and do not affect the right of Turkey to make such regulations as she may consider necessary regarding the number of men-of-war and military aircraft of any one Power which may visit Turkish ports or aerodromes at one time, and the duration of their stay.

(*b*) Littoral Powers of the Black Sea will also have a similar right as regards their ports and aerodromes.

(*c*) The light-vessels which the Powers at present represented on the European Commission of the Danube maintain as *stationnaires* at the mouths of that river as far up as Galatz will be regarded as additional to the men-of-war referred to in paragraph 2, and may be replaced in case of need.

6.

Special Provisions relating to Sanitary Protection.

Warships which have on board cases of plague, cholera or typhus, or which have had such cases on board during the last seven days, and warships which have left an infected port within less than five times 24 hours must pass through the Straits in quarantine and apply by the means on board such prophylactic measures as are necessary to prevent any possibility of the Straits being infected.

The same rule shall apply to merchant ships having a doctor on board and passing straight through the Straits without calling at a port or breaking bulk.

Merchant ships not having a doctor on board shall be obliged to comply with the international sanitary regulations before entering the Straits, even if they are not to call at a port therein.

Warships and merchant vessels calling at one of the ports in the Straits shall be subject in that port to the international sanitary regulations applicable in the port in question.

Article 3.

With a view to maintaining the Straits free from any obstacle to free passage and navigation, the provisions contained in Articles 4 to 9 will be applied to the waters and shores thereof as well as to the islands situated therein, or in the vicinity.

Article 4.

The zones and islands indicated below shall be demilitarised:

1. Both shores of the Straits of the Dardanelles and the Bosphorus over the extent of the zones delimited below (see the attached map):

Dardanelles:

On the north-west, the Gallipoli Peninsula and the area south-east of a line traced from a point on the Gulf of Xeros 4 kilometres north-east of Bakla-Burnu, reaching the Sea of Marmora at Kumbaghi and passing south of Kavak (this village excluded);

On the south-east, the area included between the coast and a line 20 kilometres from the coast, starting from Cape Eski-Stamboul opposite Tenedos and reaching the Sea of Marmora at a point on the coast immediately north of Karabigha.

Bosphorus (without prejudice to the special provisions relating to Constantinople contained in Article 8):

On the east, the area extending up to a line 15 kilometres from the eastern shore of the Bosphorus;

On the west, the area up to a line 15 kilometres from the western shore of the Bosphorus.

2. All the islands in the Sea of Marmora, with the exception of the island of Emir Ali Adasi.

3. In the Ægean Sea, the islands of Samothrace, Lemnos, Imbros, Tenedos and Rabbit Islands.

Article 5.

A Commission composed of four representatives appointed respectively by the Governments of France, Great Britain, Italy and Turkey shall meet within 15 days of the coming into force of the present Convention to determine on the spot the boundaries of the zone laid down in Article 4 (1).

The Governments represented on that Commission will pay the salaries of their respective representatives.

Any general expenses incurred by the Commission shall be borne in equal shares by the Powers represented thereon.

Article 6.

Subject to the provisions of Article 8 concerning Constantinople, there shall exist, in the demilitarised zones and islands, no fortifications, no permanent artillery organisation, no submarine engines of war other than submarine vessels, no military aerial organisation, and no naval base.

No armed forces shall be stationed in the demilitarised zones and islands except the police and gendarmerie forces necessary for the maintenance of order; the armament of such forces will be composed only of revolvers, swords, rifles and four Lewis guns per hundred men, and will exclude any artillery.

In the territorial waters of the demilitarised zones and islands, there shall exist no submarine engines of war other than submarine vessels.

Notwithstanding the preceding paragraphs Turkey will retain the right to transport her armed forces through the demilitarised zones and islands of Turkish territory, as well as through their territorial waters, where the Turkish fleet will have the right to anchor.

Moreover, in so far as the Straits are concerned, the Turkish Government shall have the right to observe by means of aeroplanes or balloons both the surface and the bottom of the sea. Turkish aeroplanes will always be able to fly over the waters of the Straits and the demilitarised zones of Turkish territory, and will have full freedom to alight therein, either on land or on sea.

In the demilitarised zones and islands and in their territorial waters, Turkey and Greece shall similarly be entitled to effect such movements of personnel as are rendered necessary for the instruction outside these zones and islands of the men recruited therein

Turkey and Greece shall have the right to organise in the said zones and islands in their respective territories any system of observation and communication, both telegraphic, telephonic and visual. Greece shall be entitled to send her fleet into the territorial waters of the demilitarised Greek islands, but may not use these waters as a base of operations against Turkey nor for any military or naval concentration for this purpose.

Article 7.

No submarine engines of war other than submarine vessels shall be installed in the waters of the Sea of Marmora.

The Turkish Government shall not instal any permanent battery or torpedo tubes, capable of interfering with the passage of the Straits, in the coastal zone of the European shore of the Sea of Marmora or in the coastal zone on the Anatolian shore situated to the east of the demilitarised zone of the Bosphorus as far as Darije.

Article 8.

At Constantinople, including for this purpose Stamboul, Pera, Galata, Scutari, as well as Princes' Islands, and in the immediate neighbourhood of Constantinople, there may be maintained for the requirements of the capital, a garrison with a maximum strength of 12,000 men. An arsenal and naval base may also be maintained at Constantinople.

Article 9.

If, in case of war, Turkey, or Greece, in pursuance of their belligerent rights, should modify in any way the provisions of demilitarisation prescribed above, they will be bound to re-establish as soon as peace is concluded the régime laid down in the present Convention.

Article 10.

There shall be constituted at Constantinople an International Commission composed in accordance with Article 12 and called the "Straits Commission."

Article 11.

The Commission will exercise its functions over the waters of the Straits.

Article 12.

The Commission shall be composed of a representative of Turkey, who shall be President, and representatives of France, Great Britain, Italy, Japan, Bulgaria, Greece, Roumania, Russia, and the Serb-Croat-Slovene State, in so far as these Powers are signatories of the present Convention, each of these Powers being entitled to representation as from its ratification of the said Convention.

The United States of America, in the event of their acceding to the present Convention, will also be entitled to have one representative on the Commission.

Under the same conditions any independent littoral States of the Black Sea which are not mentioned in the first paragraph of the present Article will possess the same right.

Article 13.

The Governments represented on the Commission will pay the salaries of their representatives. Any incidental expenditure incurred by the Commission will be borne by the said Governments in the proportion laid down for the division of the expenses of the League of Nations.

Article 14.

It will be the duty of the Commission to see that the provisions relating to the passage of warships and military aircraft are carried out; these provisions are laid down in paragraphs 2, 3 and 4 of the Annex to Article 2.

Article 15.

The Straits Commission will carry out its functions under the auspices of the League of Nations, and will address to the League an annual report giving an account of its activities, and furnishing all information which may be useful in the interests of commerce and navigation; with this object in view the Commission will place itself in touch with the departments of the Turkish Government dealing with navigation through the Straits.

Article 16.

It will be the duty of the Commission to prescribe such regulations as may be necessary for the accomplishment of its task.

Article 17.

The terms of the present Convention will not infringe the right of Turkey to move her fleet freely in Turkish waters.

Article 18.

The High Contracting Parties, desiring to secure that the demilitarisation of the Straits and of the contiguous zones shall not constitute an unjustifiable danger to the military security of Turkey, and that no act of war should imperil the freedom of the Straits or the safety of the demilitarised zones, agree as follows :—

Should the freedom of navigation of the Straits or the security of the demilitarised zones be imperilled by a violation of the provisions relating to freedom of passage, or by a surprise attack or some act of war or threat of war, the High Contracting Parties, and in any case France, Great Britain, Italy and Japan, acting in conjunction, will meet such violation, attack, or other act of war or threat of war, by all the means that the Council of the League of Nations may decide for this purpose.

So soon as the circumstance which may have necessitated the action provided for in the preceding paragraph shall have ended, the régime of the Straits as laid down by the terms of the present Convention shall again be strictly applied.

The present provision, which forms an integral part of those relating to the demilitarisation and to the freedom of the Straits, does not prejudice the rights and obligations of the High Contracting Parties under the Covenant of the League of Nations.

Article 19.

The High Contracting Parties will use every possible endeavour to induce non-signatory Powers to accede to the present Convention.

This adherence will be notified through the diplomatic channel to the Government of the French Republic, and by that Government to all signatory or adhering States. The adherence will take effect as from the date of notification to the French Government.

Article 20.

The present Convention shall be ratified. The ratifications shall be deposited at Paris as soon as possible.

The Convention will come into force in the same way as the Treaty of Peace signed this day. In so far as concerns those Powers who are not signatories of this Treaty and who at that date shall not yet have ratified the present Convention, this Convention will come into force as from the date on which they deposit their respective ratifications, which deposit shall be notified to the other Contracting Powers by the French Government.

In faith whereof the above-named Plenipotentiaries have signed the present Convention.

Done at Lausanne the 24th July, 1923, in a single copy which will remain deposited in the archives of the Government of the French Republic, and of which authenticated copies will be transmitted to each of the Contracting Powers.

(L.S.)	HORACE RUMBOLD
(L.S.)	PELLÉ.
(L.S.)	GARRONI.
(L.S.)	G. C. MONTAGNA.
(L.S.)	K. OTCHIAI.
(L.S.)	B. MORPHOFF.
(L.S.)	STANCIOFF.
(L.S.)	E. K. VENISÉLOS.
(L.S.)	D. CACLAMANOS.
(L.S.)	CONST. DIAMANDY.
(L.S.)	CONST. CONTZESCO.
(L.S.)	IORDANSKI.
( )	.....
(L.S.)	M. ISMET.
(L.S.)	DR. RIZA NOUR
(L.S.)	HASSAN.

Montreux Convention (with annexes and protocol), July 20, 1936*

* 173 L.N.T.S. 215.

[1] TRADUCTION. — TRANSLATION.

No. 4015. — CONVENTION [2] REGARDING THE RÉGIME OF THE STRAITS. SIGNED AT MONTREUX, JULY 20TH, 1936.

French official text communicated by the Permanent Delegate of Turkey to the League of Nations. The registration of this Convention took place December 11th, 1936.

HIS MAJESTY THE KING OF THE BULGARIANS, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, HIS MAJESTY THE KING OF THE HELLENES, HIS MAJESTY THE EMPEROR OF JAPAN, HIS MAJESTY THE KING OF ROUMANIA, THE PRESIDENT OF THE TURKISH REPUBLIC, THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, AND HIS MAJESTY THE KING OF YUGOSLAVIA ;

Desiring to regulate transit and navigation in the Straits of the Dardanelles, the Sea of Marmora and the Bosphorus comprised under the general term " Straits " in such manner as to safeguard, within the framework of Turkish security and of the security, in the Black Sea, of the riparian States, the principle enshrined in Article 23 of the Treaty [3] of Peace signed at Lausanne on the 24th July, 1923 ;

Have resolved to replace by the present Convention the Convention [4] signed at Lausanne on the 24th July, 1923, and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARIANS :

Dr. Nicolas P. NICOLAEV, Minister Plenipotentiary, Secretary-General of the Ministry of Foreign Affairs and of Cults ;

M. Pierre NEÏCOV, Minister Plenipotentiary, Director of Political Affairs at the Ministry of Foreign Affairs and of Cults ;

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[1] Traduction du Foreign Office de Sa Majesté britannique.

[1] Translation of His Britannic Majesty's Foreign Office.

[2] *Ratifications deposited at Paris :*

GREAT BRITAIN AND NORTHERN IRELAND AND ALL PARTS OF THE BRITISH EMPIRE WHICH ARE NOT SEPARATE MEMBERS OF THE LEAGUE OF NATIONS	November 9th, 1936.
AUSTRALIA	
BULGARIA	
FRANCE	
GREECE	
ROUMANIA	
TURKEY	
UNION OF SOVIET SOCIALIST REPUBLICS	
YUGOSLAVIA	
JAPAN	April 19th, 1937.

The *procès-verbal* of deposit of the first six ratifications, including that of Turkey, provided for in Article 26 of the Convention, was drawn up on November 9th, 1936.

The present Convention, the provisions of which were provisionally applied as from August 15th, 1936, came finally into force on November 9th, 1936.

[3] Vol. XXVIII, page 11, of this Series.

[4] Vol. XXVIII, page 115, of this Series.

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. PAUL-BONCOUR, Senator, Permanent Delegate of France to the League of Nations, former President of the Council, former Minister for Foreign Affairs, Chevalier of the Legion of Honour, Croix de Guerre ;

M. Henri PONSOT, Ambassador Extraordinary and Plenipotentiary of the French Republic at Angora, Grand Officer of the Legion of Honour ;

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

FOR GREAT BRITAIN AND NORTHERN IRELAND AND ALL PARTS OF THE BRITISH EMPIRE WHICH ARE NOT SEPARATE MEMBERS OF THE LEAGUE OF NATIONS :

The Right Honourable Lord STANLEY, P.C., M.C., M.P., Parliamentary Secretary to the Admiralty ;

FOR THE COMMONWEALTH OF AUSTRALIA :

The Right Honourable Stanley Melbourne BRUCE, C.H., M.C., High Commissioner for the Commonwealth of Australia in London ;

HIS MAJESTY THE KING OF THE HELLENES :

M. Nicolas POLITIS, Envoy Extraordinary and Minister Plenipotentiary of Greece in Paris, former Minister for Foreign Affairs ;

M. Raoul BIBICA ROSETTI, Permanent Delegate of Greece to the League of Nations ;

HIS MAJESTY THE EMPEROR OF JAPAN :

M. Naotake SATO, Jusammi, Grand-Cordon of the Order of the Rising Sun, Ambassador Extraordinary and Plenipotentiary in Paris ;

M. Massa-aki HOTTA, Jushii, Second Class of the Order of the Rising Sun, Envoy Extraordinary and Minister Plenipotentiary at Berne ;

HIS MAJESTY THE KING OF ROUMANIA :

M. Nicolas TITULESCO, Minister Secretary of State for the Department of Foreign Affairs ;

M. Constantin CONTZESCO, Minister Plenipotentiary, Delegate of Roumania to the European and International Commissions of the Danube ;

M. Vespasien PELLA, Envoy Extraordinary and Minister Plenipotentiary at The Hague ;

THE PRESIDENT OF THE TURKISH REPUBLIC :

Dr. RÜŞTÜ ARAS, Minister for Foreign Affairs, Deputy for Smyrna ;

M. Suad DAVAZ, Ambassador Extraordinary and Plenipotentiary of the Turkish Republic in Paris ;

M. Numan MENEMENÇIOĞLU, Ambassador of Turkey, Secretary-General of the Ministry for Foreign Affairs ;

M. Asim GÜNDÜZ, General Commanding an Army Corps, Deputy Chief of the General Staff ;

M. Necmeddin SADAK, Permanent Delegate of Turkey to the League of Nations, Deputy for Sivas, *Rapporteur* for the Committee of Foreign Affairs ;

THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS :

M. Maxime LITVINOFF, Member of the Central Executive Committee of the Union of Soviet Socialist Republics, People's Commissar for Foreign Affairs ;

HIS MAJESTY THE KING OF YUGOSLAVIA :

M. Ivan SOUBBOTITCH, Permanent Delegate of the Kingdom of Yugoslavia to the League of Nations ;

Who, after having exhibited their full powers, found in good and due form, have agreed on the following provisions :

Article 1.

The High Contracting Parties recognise and affirm the principle of freedom of transit and navigation by sea in the Straits.

The exercise of this freedom shall henceforth be regulated by the provisions of the present Convention.

SECTION I.

MERCHANT VESSELS.

Article 2.

In time of peace, merchant vessels shall enjoy complete freedom of transit and navigation in the Straits, by day and by night, under any flag and with any kind of cargo, without any formalities, except as provided in Article 3 below. No taxes or charges other than those authorised by Annex I to the present Convention shall be levied by the Turkish authorities on these vessels when passing in transit without calling at a port in the Straits.

In order to facilitate the collection of these taxes or charges merchant vessels passing through the Straits shall communicate to the officials at the stations referred to in Article 3 their name, nationality, tonnage, destination and last port of call (provenance).

Pilotage and towage remain optional.

Article 3.

All ships entering the Straits by the Ægean Sea or by the Black Sea shall stop at a sanitary station near the entrance to the Straits for the purposes of the sanitary control prescribed by Turkish law within the framework of international sanitary regulations. This control, in the case of ships possessing a clean bill of health or presenting a declaration of health testifying that they do not fall within the scope of the provisions of the second paragraph of the present Article, shall be carried out by day and by night with all possible speed, and the vessels in question shall not be required to make any other stop during their passage through the Straits.

Vessels which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox, or which have had such cases on board during the previous seven days, and vessels which have left an infected port within less than five times twenty-four hours shall stop at the sanitary stations indicated in the preceding paragraph in order to embark such sanitary guards as the Turkish authorities may direct. No tax or charge shall be levied in respect of these sanitary guards and they shall be disembarked at a sanitary station on departure from the Straits.

Article 4.

In time of war, Turkey not being belligerent, merchant vessels, under any flag or with any kind of cargo, shall enjoy freedom of transit and navigation in the Straits subject to the provisions of Articles 2 and 3.

Pilotage and towage remain optional.

Article 5.

In time of war, Turkey being belligerent, merchant vessels not belonging to a country at war with Turkey shall enjoy freedom of transit and navigation in the Straits on condition that they do not in any way assist the enemy.

Such vessels shall enter the Straits by day and their transit shall be effected by the route which shall in each case be indicated by the Turkish authorities.

Article 6.

Should Turkey consider herself to be threatened with imminent danger of war, the provisions of Article 2 shall nevertheless continue to be applied except that vessels must enter the Straits by

day and that their transit must be effected by the route which shall, in each case, be indicated by the Turkish authorities.

Pilotage may, in this case, be made obligatory, but no charge shall be levied.

Article 7.

The term " merchant vessels " applies to all vessels which are not covered by Section II of the present Convention.

SECTION II.

Vessels of War.

Article 8.

For the purposes of the present Convention, the definitions of vessels of war and of their specification together with those relating to the calculation of tonnage shall be as set forth in Annex II to the present Convention.

Article 9.

Naval auxiliary vessels specifically designed for the carriage of fuel, liquid or non-liquid, shall not be subject to the provisions of Article 13 regarding notification, nor shall they be counted for the purpose of calculating the tonnage which is subject to limitation under Articles 14 and 18, on condition that they shall pass through the Straits singly. They shall, however, continue to be on the same footing as vessels of war for the purpose of the remaining provisions governing transit.

The auxiliary vessels specified in the preceding paragraph shall only be entitled to benefit by the exceptional status therein contemplated if their armament does not include : for use against floating targets, more than two guns of a maximum calibre of 105 millimetres ; for use against aerial targets, more than two guns of a maximum calibre of 75 millimetres.

Article 10.

In time of peace, light surface vessels, minor war vessels and auxiliary vessels, whether belonging to Black Sea or non-Black Sea Powers, and whatever their flag, shall enjoy freedom of transit through the Straits without any taxes or charges whatever, provided that such transit is begun during daylight and subject to the conditions laid down in Article 13 and the Articles following thereafter.

Vessels of war other than those which fall within the categories specified in the preceding paragraph shall only enjoy a right of transit under the special conditions provided by Articles 11 and 12.

Article 11.

Black Sea Powers may send through the Straits capital ships of a tonnage greater than that laid down in the first paragraph of Article 14, on condition that these vessels pass through the Straits singly, escorted by not more than two destroyers.

Article 12.

Black Sea Powers shall have the right to send through the Straits, for the purpose of rejoining their base, submarines constructed or purchased outside the Black Sea, provided that adequate notice of the laying down or purchase of such submarines shall have been given to Turkey.

Submarines belonging to the said Powers shall also be entitled to pass through the Straits to be repaired in dockyards outside the Black Sea on condition that detailed information on the matter is given to Turkey.

In either case, the said submarines must travel by day and on the surface, and must pass through the Straits singly.

Article 13.

The transit of vessels of war through the Straits shall be preceded by a notification given to the Turkish Government through the diplomatic channel. The normal period of notice shall be eight days ; but it is desirable that in the case of non-Black Sea Powers this period should be increased to fifteen days. The notification shall specify the destination, name, type and number of the vessels, as also the date of entry for the outward passage and, if necessary, for the return journey. Any change of date shall be subject to three days' notice.

Entry into the Straits for the outward passage shall take place within a period of five days from the date given in the original notification. After the expiry of this period, a new notification shall be given under the same conditions as for the original notification.

When effecting transit, the commander of the naval force shall, without being under any obligation to stop, communicate to a signal station at the entrance to the Dardanelles or the Bosphorus the exact composition of the force under his orders.

Article 14.

The maximum aggregate tonnage of all foreign naval forces which may be in course of transit through the Straits shall not exceed 15,000 tons, except in the cases provided for in Article 11 and in Annex III to the present Convention.

The forces specified in the preceding paragraph shall not, however, comprise more than nine vessels.

Vessels, whether belonging to Black Sea or non-Black Sea Powers, paying visits to a port in the Straits, in accordance with the provisions of Article 17, shall not be included in this tonnage.

Neither shall vessels of war which have suffered damage during their passage through the Straits be included in this tonnage ; such vessels, while undergoing repair, shall be subject to any special provisions relating to security laid down by Turkey.

Article 15.

Vessels of war in transit through the Straits shall in no circumstances make use of any aircraft which they may be carrying.

Article 16.

Vessels of war in transit through the Straits shall not, except in the event of damage or peril of the sea, remain therein longer than is necessary for them to effect the passage.

Article 17.

Nothing in the provisions of the preceding Articles shall prevent a naval force of any tonnage or composition from paying a courtesy visit of limited duration to a port in the Straits, at the invitation of the Turkish Government. Any such force must leave the Straits by the same route as that by which it entered, unless it fulfils the conditions required for passage in transit through the Straits as laid down by Articles 10, 14 and 18.

Article 18.

(1) The aggregate tonnage which non-Black Sea Powers may have in that sea in time of peace shall be limited as follows :

(a) Except as provided in paragraph *(b)* below, the aggregate tonnage of the said Powers shall not exceed 30,000 tons ;

(b) If at any time the tonnage of the strongest fleet in the Black Sea shall exceed by at least 10,000 tons the tonnage of the strongest fleet in that sea at the date of the

signature of the present Convention, the aggregate tonnage of 30,000 tons mentioned in paragraph *(a)* shall be increased by the same amount, up to a maximum of 45,000 tons. For this purpose, each Black Sea Power shall, in conformity with Annex IV to the present Convention, inform the Turkish Government, on the 1st January and the 1st July of each year, of the total tonnage of its fleet in the Black Sea ; and the Turkish Government shall transmit this information to the other High Contracting Parties and to the Secretary-General of the League of Nations ;

(c) The tonnage which any one non-Black Sea Power may have in the Black Sea shall be limited to two-thirds of the aggregate tonnage provided for in paragraphs *(a)* and *(b)* above ;

(d) In the event, however, of one or more non-Black Sea Powers desiring to send naval forces into the Black Sea, for a humanitarian purpose, the said forces, which shall in no case exceed 8,000 tons altogether, shall be allowed to enter the Black Sea without having to give the notification provided for in Article 13 of the present Convention, provided an authorisation is obtained from the Turkish Government in the following circumstances : if the figure of the aggregate tonnage specified in paragraphs *(a)* and *(b)* above has not been reached and will not be exceeded by the despatch of the forces which it is desired to send, the Turkish Government shall grant the said authorisation within the shortest possible time after receiving the request which has been addressed to it ; if the said figure has already been reached or if the despatch of the forces which it is desired to send will cause it to be exceeded, the Turkish Government will immediately inform the other Black Sea Powers of the request for authorisation, and if the said Powers make no objection within twenty-four hours of having received this information, the Turkish Government shall, within forty-eight hours at the latest, inform the interested Powers of the reply which it has decided to make to their request.

Any further entry into the Black Sea of naval forces of non-Black Sea Powers shall only be effected within the available limits of the aggregate tonnage provided for in paragraphs *(a)* and *(b)* above.

(2) Vessels of war belonging to non-Black Sea Powers shall not remain in the Black Sea more than twenty-one days, whatever be the object of their presence there.

Article 19.

In time of war, Turkey not being belligerent, warships shall enjoy complete freedom of transit and navigation through the Straits under the same conditions as those laid down in Articles 10 to 18.

Vessels of war belonging to belligerent Powers shall not, however, pass through the Straits except in cases arising out of the application of Article 25 of the present Convention, and in cases of assistance rendered to a State victim of aggression in virtue of a treaty of mutual assistance binding Turkey, concluded within the framework of the Covenant of the League of Nations, and registered and published in accordance with the provisions of Article 18 of the Covenant.

In the exceptional cases provided for in the preceding paragraph, the limitations laid down in Articles 10 to 18 of the present Convention shall not be applicable.

Notwithstanding the prohibition of passage laid down in paragraph 2 above, vessels of war belonging to belligerent Powers, whether they are Black Sea Powers or not, which have become separated from their bases, may return thereto.

Vessels of war belonging to belligerent Powers shall not make any capture, exercise the right of visit and search, or carry out any hostile act in the Straits.

Article 20.

In time of war, Turkey being belligerent, the provisions of Articles 10 to 18 shall not be applicable ; the passage of warships shall be left entirely to the discretion of the Turkish Government.

Article 21.

Should Turkey consider herself to be threatened with imminent danger of war she shall have the right to apply the provisions of Article 20 of the present Convention.

Vessels which have passed through the Straits before Turkey has made use of the powers conferred upon her by the preceding paragraph, and which thus find themselves separated from their bases, may return thereto. It is, however, understood that Turkey may deny this right to vessels of war belonging to the State whose attitude has given rise to the application of the present Article.

Should the Turkish Government make use of the powers conferred by the first paragraph of the present Article, a notification to that effect shall be addressed to the High Contracting Parties and to the Secretary-General of the League of Nations.

If the Council of the League of Nations decide by a majority of two-thirds that the measures thus taken by Turkey are not justified, and if such should also be the opinion of the majority of the High Contracting Parties signatories to the present Convention, the Turkish Government undertakes to discontinue the measures in question as also any measures which may have been taken under Article 6 of the present Convention.

Article 22.

Vessels of war which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox or which have had such cases on board within the last seven days and vessels of war which have left an infected port within less than five times twenty-four hours must pass through the Straits in quarantine and apply by the means on board such prophylactic measures as are necessary in order to prevent any possibility of the Straits being infected.

SECTION III.

AIRCRAFT.

Article 23.

In order to assure the passage of civil aircraft between the Mediterranean and the Black Sea, the Turkish Government will indicate the air routes available for this purpose, outside the forbidden zones which may be established in the Straits. Civil aircraft may use these routes provided that they give the Turkish Government, as regards occasional flights, a notification of three days, and as regards flights on regular services, a general notification of the dates of passage.

The Turkish Government moreover undertake, notwithstanding any remilitarisation of the Straits, to furnish the necessary facilities for the safe passage of civil aircraft authorised under the air regulations in force in Turkey to fly across Turkish territory between Europe and Asia. The route which is to be followed in the Straits zone by aircraft which have obtained an authorisation shall be indicated from time to time.

SECTION IV.

GENERAL PROVISIONS.

Article 24.

The functions of the International Commission set up under the Convention relating to the régime of the Straits of the 24th July, 1923, are hereby transferred to the Turkish Government.

The Turkish Government undertake to collect statistics and to furnish information concerning the application of Articles 11, 12, 14 and 18 of the present Convention.

They will supervise the execution of all the provisions of the present Convention relating to the passage of vessels of war through the Straits.

As soon as they have been notified of the intended passage through the Straits of a foreign naval force the Turkish Government shall inform the representatives at Angora of the High Contracting Parties of the composition of that force, its tonnage, the date fixed for its entry into the Straits, and, if necessary, the probable date of its return.

The Turkish Government shall address to the Secretary-General of the League of Nations and to the High Contracting Parties an annual report giving details regarding the movements of foreign vessels of war through the Straits and furnishing all information which may be of service to commerce and navigation, both by sea and by air, for which provision is made in the present Convention.

Article 25.

Nothing in the present Convention shall prejudice the rights and obligations of Turkey, or of any of the other High Contracting Parties members of the League of Nations, arising out of the Covenant of the League of Nations.

SECTION V.

Final Provisions.

Article 26.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited in the archives of the Government of the French Republic in Paris.

The Japanese Government shall be entitled to inform the Government of the French Republic through their diplomatic representative in Paris that the ratification has been given, and in that case they shall transmit the instrument of ratification as soon as possible.

A *procès-verbal* of the deposit of ratifications shall be drawn up as soon as six instruments of ratification, including that of Turkey, shall have been deposited. For this purpose the notification provided for in the preceding paragraph shall be taken as the equivalent of the deposit of an instrument of ratification.

The present Convention shall come into force on the date of the said *procès-verbal*.

The French Government will transmit to all the High Contracting Parties an authentic copy of the *procès-verbal* provided for in the preceding paragraph and of the *procès-verbaux* of the deposit of any subsequent ratifications.

Article 27.

The present Convention shall, as from the date of its entry into force, be open to accession by any Power signatory to the Treaty of Peace at Lausanne signed on the 24th July, 1923.

Each accession shall be notified, through the diplomatic channel, to the Government of the French Republic, and by the latter to all the High Contracting Parties.

Accessions shall come into force as from the date of notification to the French Government.

Article 28.

The present Convention shall remain in force for twenty years from the date of its entry into force.

The principle of freedom of transit and navigation affirmed in Article 1 of the present Convention shall however continue without limit of time.

If, two years prior to the expiry of the said period of twenty years, no High Contracting Party shall have given notice of denunciation to the French Government the present Convention shall continue in force until two years after such notice shall have been given. Any such notice shall be communicated by the French Government to the High Contracting Parties.

In the event of the present Convention being denounced in accordance with the provisions of the present Article, the High Contracting Parties agree to be represented at a conference for the purpose of concluding a new Convention.

Article 29.

At the expiry of each period of five years from the date of the entry into force of the present Convention each of the High Contracting Parties shall be entitled to initiate a proposal for amending one or more of the provisions of the present Convention.

To be valid, any request for revision formulated by one of the High Contracting Parties must be supported, in the case of modifications to Articles 14 or 18, by one other High Contracting Party, and, in the case of modifications to any other Article, by two other High Contracting Parties.

Any request for revision thus supported must be notified to all the High Contracting Parties three months prior to the expiry of the current period of five years. This notification shall contain details of the proposed amendments and the reasons which have given rise to them.

Should it be found impossible to reach an agreement on these proposals through the diplomatic channel, the High Contracting Parties agree to be represented at a conference to be summoned for this purpose.

Such a conference may only take decisions by a unanimous vote, except as regards cases of revision involving Articles 14 and 18, for which a majority of three-quarters of the High Contracting Parties shall be sufficient.

The said majority shall include three-quarters of the High Contracting Parties which are Black Sea Powers, including Turkey.

In witness whereof, the above-mentioned Plenipotentiaries have signed the present Convention.

Done at Montreux the 20th July, 1936, in eleven copies, of which the first copy, to which the seals of the Plenipotentiaries have been affixed, will be deposited in the archives of the Government of the French Republic and of which the remaining copies have been transmitted to the signatory Powers.

(L. S.) N. P. NICOLAEV.
(L. S.) Pierre NEÏCOV.
(L. S.) J. PAUL-BONCOUR.
(L. S.) H. PONSOT.
(L. S.) STANLEY.
(L. S.) S. M. BRUCE.
(L. S.) N. POLITIS.
(L. S.) Raoul BIBICA ROSETTI.

The undersigned, Plenipotentiaries of Japan, declare, in the name of their Government, that the provisions of the present Convention do not in any sense modify the position of Japan as a State not a member of the League of Nations, whether in relation to the Covenant of the League of Nations or in regard to treaties of mutual assistance concluded within the framework of the

said Covenant, and that in particular Japan reserves full liberty of interpretation as regards the provisions of Articles 19 and 25 so far as they concern that Covenant and those treaties.

(L. S.) N. SATO.
(L. S.) Massa-aki HOTTA.

(L. S.) N. TITULESCO.
(L. S.) Cons. CONTZESCO.
(L. S.) V. V. PELLA.
(L. S.) Dr. R. ARAS.
(L. S.) Suad DAVAZ.
(L. S.) N. MENEMENCIOGLU.
(L. S.) Asim GÜNDÜZ.
(L. S.) N. SADAK.
(L. S.) Maxime LITVINOFF.
(L. S.) Dr. I. V. SOUBBOTITCH.

ANNEX I.

The taxes and charges which may be levied in accordance with Article 2 of the present Convention shall be those set forth in the following table. Any reductions in these taxes or charges which the Turkish Government may grant shall be applied without any distinction based on the flag of the vessel :

Nature of service rendered	Amount of tax or charge to be levied on each ton of net register tonnage *Francs gold* [1]
(a) Sanitary Control Stations	0.075
(b) Lighthouses, Light and Channel Buoys :	
Up to 800 tons	0.42
Above 800 tons	0.21
(c) Life Saving Services, including Life-boats, Rocket Stations, Fog Sirens, Direction-finding Stations, and any Light Buoys not comprised in *(b)* above, or other similar installations .	0.10

2. The taxes and charges set forth in the table attached to paragraph 1 of the present Annex shall apply in respect of a return voyage through the Straits (that is to say, a voyage from the Ægean Sea to the Black Sea and return back to the Ægean Sea or else a voyage through the Straits from the Black Sea to the Ægean Sea followed by a return voyage into the Black Sea) ; if, however, a merchant vessel re-enters the Straits with the object of returning into the Ægean Sea or to the Black Sea, as the case may be, more than six months after the date of entry into the Straits for the outward voyage, such vessel may be called upon to pay these taxes and charges a second time, provided no distinction is made based on the flag of the vessel.

[1] 100 piastres at present equals 2.5 francs gold (approx.).

3. If, on the outward voyage, a merchant vessel declares an intention of not returning, it shall only be obliged as regards the taxes and charges provided for in paragraphs *(b)* and *(c)* of the first paragraph of the present Annex, to pay half the tariff indicated.

4. The taxes and charges set forth in the table attached to the first paragraph of the present Annex, which are not to be greater than is necessary to cover the cost of maintaining the services concerned and of allowing for the creation of a reasonable reserve fund or working balance, shall not be increased or added to except in accordance with the provisions of Article 29 of the present Convention. They shall be payable in gold francs or in Turkish currency at the rate of exchange prevailing on the date of payment.

5. Merchant vessels may be required to pay taxes and charges for optional services, such as pilotage and towage, when any such service shall have been duly rendered by the Turkish authorities at the request of the agent or master of any such vessel. The Turkish Government will publish from time to time the tariff of the taxes and charges to be levied for such optional services.

6. These tariffs shall not be increased in cases in the event of the said services being made obligatory by reason of the application of Article 5.

ANNEX II.[1]

A. STANDARD DISPLACEMENT.

(1) The standard displacement of a surface vessel is the displacement of the vessel, complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

(2) The standard displacement of a submarine is the surface displacement of the vessel complete (exclusive of the water in non-watertight structure), fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel, lubricating oil, fresh water or ballast water of any kind on board.

(3) The word " ton " except in the expression " metric tons " denotes the ton of 2,240 lb (1,016 kilos).

B. CATEGORIES.

(1) *Capital Ships* are surface vessels of war belonging to one of the two following sub-categories:

(a) Surface vessels of war, other than aircraft-carriers, auxiliary vessels, or capital ships of sub-category *(b)*, the standard displacement of which exceeds 10,000 tons (10,160 metric tons) or which carry a gun with a calibre exceeding 8 in. (203 mm.) ;

(b) Surface vessels of war, other than aircraft-carriers, the standard displacement of which does not esceed 8,000 tons (8,128 metric tons) and which carry a gun with a calibre exceeding 8 in. (203 mm.).

(2) *Aircraft-Carriers* are surface vessels of war, whatever their displacement, designed or adapted primarily for the purpose of carrying and operating aircraft at sea. The fitting of a landing-on or flying-off deck on any vessel of war, provided such vessel has not been designed or adapted primarily for the purpose of carrying and operating aircraft at sea, shall not cause any vessel so fitted to be classified in the category of aircraft-carriers.

[1] The wording of the present Annex is taken from the London Naval Treaty of March 25th, 1936.

The category of aircraft-carriers is divided into two sub-categories as follows :

(a) Vessels fitted with a flight deck, from which aircraft can take off, or on which aircraft can land from the air ;

(b) Vessels not fitted with a flight deck as described in *(a)* above.

(3) *Light Surface Vessels* are surface vessels of war other than aircraft-carriers, minor war vessels or auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 10,000 tons (10,160 metric tons), and which do not carry a gun with a calibre exceeding 8 in. (203 mm.).

The category of light surface vessels is divided into three sub-categories as follows :

(a) Vessels which carry a gun with a calibre exceeding 6.1 in. (155 mm.) ;

(b) Vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which exceeds 3,000 tons (3,048 metric tons) ;

(c) Vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which does not exceed 3,000 tons (3,048 metric tons).

(4) *Submarines* are all vessels designed to operate below the surface of the sea.

(5) *Minor War Vessels* are surface vessels of war, other than auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 2,000 tons (2,032 metric tons), provided they have none of the following characteristics :

(a) Mount a gun with a calibre exceeding 6.1 in. (155 mm.) ;
(b) Are designed or fitted to launch torpedoes ;
(c) Are designed for a speed greater than twenty knots.

(6) *Auxiliary Vessels* are naval surface vessels the standard displacement of which exceeds 100 tons (102 metric tons), which are normally employed on fleet duties or as troop transports, or in some other way than as fighting ships, and which are not specifically built as fighting ships, provided they have none of the following characteristics :

(a) Mount a gun with a calibre exceeding 6.1 in. (155 mm.) ;
(b) Mount more than eight guns with a calibre exceeding 3 in. (76 mm.) ;
(c) Are designed or fitted to launch torpedoes ;
(d) Are designed for protection by armour plate ;
(e) Are designed for a speed greater than twenty-eight knots ;
(f) Are designed or adapted primarily for operating aircraft at sea ;

(g) Mount more than two aircraft-launching apparatus.

C. OVER-AGE.

Vessels of the following categories and sub-categories shall be deemed to be " over-age " when the undermentioned number of years have elapsed since completion :

(a) Capital ships	26 years ;
(b) Aircraft-carriers	20 years ;
(c) Light surface vessels, sub-categories *(a)* and *(b)* :	
(i) If laid down before 1st January, 1920	16 years ;
(ii) If laid down after 31st December, 1919	20 years ;
(d) Light surface vessels, sub-category *(c)*	16 years ;
(e) Submarines	13 years ;

ANNEX III.

It is agreed that, of the three over-age training ships, as indicated below, belonging to the Japanese Fleet, two units may be allowed to visit ports in the Straits at the same time.

The aggregate tonnage of these two vessels shall in this case be considered as being equivalent to 15,000 tons.

	Date when laid down	Date of entry into service	Standard displacement (tons)	Armaments
Asama	20-X-1896	18-III-1899	9,240	IV × 200 mm. XII × 150 mm.
Yakumo	1-IX-1898	20-VI-1900	9,010	IV × 200 mm. XII × 150 mm.
Iwate.	11-XI-1898	18-III-1901	9,180	IV × 200 mm. XIV × 150 mm.

ANNEX IV.

1. The categories and sub-categories of vessels to be included in the calculation of the total tonnage of the Black Sea Powers provided for in Article 18 of the present Convention are the following :

Capital Ships :

Sub-category *(a)* ;
Sub-category *(b)*.

Aircraft-Carriers :

Sub-category *(a)* ;
Sub-category *(b)*.

Light Surface Vessels :

Sub-category *(a)* ;
Sub-category *(b)* ;
Sub-category *(c)*.

Submarines :

As defined in Annex II to the present Convention.

The displacement which is to be taken into consideration in the calculation of the total tonnage is the standard displacement as defined in Annex II. Only those vessels shall be taken into consideration which are not over-age according to the definition contained in the said Annex.

2. The notification provided for in Article 18, paragraph *(b)*, shall also include the total tonnage of vessels belonging to the categories and sub-categories mentioned in paragraph 1 of the present Annex.

PROTOCOL.

At the moment of signing the Convention bearing this day's date, the undersigned Plenipotentiaries declare for their respective Governments that they accept the following provisions:

(1) Turkey may immediately remilitarise the zone of the Straits as defined in the Preamble to the said Convention.

(2) As from the 15th August, 1936, the Turkish Government shall provisionally apply the régime specified in the said Convention.

(3) The present Protocol shall enter into force as from this day's date.

Done at Montreux, the 20th July, 1936.

N. P. NICOLAEV.
Pierre NEÏCOV.
J. PAUL-BONCOUR.
H. PONSOT.
STANLEY.
S. M. BRUCE.
N. POLITIS.
Raoul BIBICA ROSETTI.
N. SATO. *(ad referendum).*
Massa-aki HOTTA *(ad referendum).*
N. TITULESCO.
Cons. CONTZESCO.
V. V. PELLA.
Dr. R. ARAS.
Suad DAVAZ.
N. MENEMENCIOGLU.
Asim GÜNDÜZ.
N. SADAK.
Maxime LITVINOFF.
Dr. I. V. SOUBBOTITCH.

4. Persian Gulf and the Strait of Hormuz

Protocol on the Demarcation of Iraq-Iran Water Borders (Articles VII and IX), June 13, 1975*

* 14 I.L.M. 1138.

ARTICLE SEVEN

1) Commercial, government and military vessels belonging to both contracting parties shall enjoy navigation freedom in Shatt-ul-Arab, regardless of the line demarcating the territorial waters of each country in all parts of navigable channels situated within the territorial waters and leading to Shatt-ul-Arab main channel.

2) Vessels belonging to a third country and used for commercial purposes shall enjoy navigation freedom in Shatt-ul-Arab on equal footing and without discrimination, regardless of the line demarcating the territorial waters of both countries in all parts of the navigable channels situated in the territorial waters leading to Shatt-ul-Arab main channel.

3) Each of the contracting parties may permit entrance into Shatt-ul-Arab to foreign military vessels to visit its ports, provided that such vessels shall not belong to a country in a state of hostility or armed dispute or war with any of the contracting parties, and that the other party shall be notified beforehand, at least 72 hours prior, to such a visit.

4) The two contracting parties shall, under all circumstances, deny permission for entry into Shatt-ul-Arab to commercial vessels belonging to a state hostile, or in armed dispute or at war with any of the two parties.

ARTICLE NINE

The two contracting parties realize that Shatt-ul-Arab is mainly an international navigation route; therefore, they undertake to refrain from any exploitation that might impede navigation in Shatt-ul-Arab and the territorial waters of each country in all parts of the navigable channels situated in the territorial waters and leading to Shatt-ul-Arab's main channel.

Written at Baghdad on the 12th of June, 1975.

Abbas Ali Khalatbari
Foreign Minister of Iran
Dr. Saadoun Hammadi
Foreign Minister of Iraq

This Treaty and the three Protocols and Appendices have been endorsed in the presence of H.E. Abdul Aziz Bouteflika, RCC Member and Foreign Minister of Algeria.

H.E. the Iranian Foreign Minister, in a statement on the occasion, pointed out:

"I have the honour to assure Your Excellency, that, in accordance with our agreement on the conclusion of the treaty pertaining to the international borders and good neighbourly relations between Iraq and Iran, together with the three Protocols and Appendices, namely:

1 — Agreement on navigation in Shatt-ul-Arab.

2 — Agreement on grazing rights

3 — Agreement on border rivers

4 — Agreement on the rights and terms of reference of border commissions;

The two supreme contracting parties are bound to draw up and conclude the same simultaneously within a period of three months as from today.

Kindly accept my respects."

Abbas Ali Khalatbari

Foreign Minister, Saadoun Hammadi's message reads:

"It honours me to acknowledge the receipt of your letter dated June 13, 1975, and confirm that, according to our agreement on the conclusion of the Treaty on International Borders and good neighbourly relations between Iraq and Iran together with the three Protocols and Appendices, namely:

1 — Agreement on Navigation in Shatt-ul-Arab.

2 — Agreement On grazing rights.

3 — Agreement on border rivers.

4 — Agreement on the rights and terms of reference of border commissions:

The two Supreme Contracting Parties are bound to draw up and conclude the same simultaneously within a period of three months as from today.

Kindly accept my respects."

Saadoun Hammadi
Foreign Minister of Iraq

H.E. the Minister,

It honours me to confirm to Your Excellency that, in accordance with the agreement we have reached today, the two supreme contracting parties undertake to conduct, within a period not exceeding one year, all formalities related to the ratification of the treaty on international borders and good neighbourly relations between Iran and Iraq, together with the three Protocols and Appendices, in accordance with the international law as an arbiter to each party.

Kindly accept my sincere respects.

Abbas Ali Khalatbari
Foreign Minister of Iran

H.E. the Minister,

It honours me to acknowledge the receipt of your letter dated June 13, 1975, and confirm that, according to the agreement concluded today, each contracting party undertakes to conduct, within a period not exceeding one year, all formalities related to ratification procedures of the Treaty on International Borders and Good Neighbourly Relations Between Iraq and Iran, together with the three Protocols and Appendices in accordance with the international law of each party.

Saadoun Hammadi
Foreign Minister of Iraq

5. Strait of Tiran and the Gulf of Agaba

Statement in the United Nations General Assembly
by Israeli Foreign Minister Golda Meir Concerning
the Strait of Tiran and the Gulf of Aqaba,
March 1, 1957*

* U.S. Dept. State, United States Policy in the Middle East, September 1956-June 1957 (No. 6506) at 328 (1957).

Statement in the United Nations General Assembly by Israeli Foreign Minister Golda Meir, March 1, 1957 [85]

The Government of Israel is now in a position to announce its plans for full and prompt withdrawal from the Sharm el-Sheikh area and the Gaza Strip, in compliance with resolution I of 2 February 1957.

We have repeatedly stated that Israel has no interest in the strip of land overlooking the western coast of the Gulf of Aqaba. Our sole purpose has been to ensure that, on the withdrawal of Israel forces, continued freedom of navigation will exist for Israel and international shipping in the Gulf of Aqaba and the Straits of Tiran. Such freedom of navigation is a vital national interest for Israel, but it is also of importance and legitimate concern to the maritime Powers and to many States whose economies depend upon trade and navigation between the Red Sea and the Mediterranean Sea.

There has recently been an increasingly wide recognition that the Gulf of Aqaba comprehends international waters in which the right of free and innocent passage exists.

On 11 February 1957, the Secretary of State of the United States of America handed to the Ambassador of Israel in Washington a memorandum dealing, among other things, with the subject of the Gulf of Aqaba and the Straits of Tiran.

This statement discusses the rights of nations in the Gulf of Aqaba and declares the readiness of the United States to exercise those rights on its own behalf and to join with others in securing general recognition of those rights.

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[85] United Nations provisional document A/PV.666, Mar. 1, 1957.

My Government has subsequently learnt with gratification that other leading maritime Powers are prepared to subscribe to the doctrine set out in the United States memorandum of 11 February and have a similar intention to exercise their rights of free and innocent passage in the Gulf and the Straits.

The General Assembly's resolution (II) of 2 February 1957 contemplates that units of the United Nations Emergency Force will move into the Straits of Tiran area on Israel's withdrawal. It is generally recognized that the function of the United Nations Emergency Force in the Straits of Tiran area includes the prevention of belligerent acts.

In this connexion, my Government recalls the statements by the representative of the United States in the General Assembly on 28 January and 2 February 1957, with reference to the function of the United Nations Emergency Force units which are to move into the Straits of Tiran area on Israel's withdrawal. The statement of 28 January, repeated on 2 February, said:

"It is essential that units of the United Nations Emergency Force be stationed at the Straits of Tiran in order to achieve there the separation of Egyptian and Israeli land and sea forces. This separation is essential until it is clear that the non-existence of any claimed belligerent rights has established in practice the peaceful conditions which must govern navigation in waters having such an international interest." (*A/PV.645, page 3-5*)

My Government has been concerned with the situation which would arise if the United Nations Emergency Force, having taken up its position in the Straits of Tiran area for the purpose of assuring non-belligerency, were to be withdrawn, in conditions which might give rise to interference with free and innocent navigation and, therefore, to the renewal of hostilities. Such a premature cessation of the precautionary measures taken by the United Nations for the prevention of belligerent acts would prejudice important international interests and threaten peace and security. My Government has noted the assurance embodied in the Secretary-General's report of 26 February 1957, that any proposal for the withdrawal of the United Nations Emergency Force from the Gulf of Aqaba area would first come to the Advisory Committee, which represents the General Assembly in the implementation of its resolution of 2 November 1956. This procedure will give the General Assembly an opportunity to ensure that no precipitate changes are made which would have the effect of increasing the possibility of belligerent acts. We have reason to believe that in such a discussion many Members of the United Nations would be guided by the view expressed by Ambassador Lodge on 2 February in favour of maintaining the United Nations Emer-

gency Force in the Straits of Tiran until peaceful conditions were in practice assured.

In the light of these doctrines, policies and arrangements by the United Nations and the maritime Powers, my Government is confident that free and innocent passage for international and Israel shipping will continue to be fully maintained after Israel's withdrawal.

It remains for me now to formulate the policy of Israel both as a littoral State and as a country which intends to exercise its full rights of free passage in the Gulf of Aqaba and through the Straits of Tiran.

The Government of Israel believes that the Gulf of Aqaba comprehends international waters and that no nation has the right to prevent free and innocent passage in the Gulf and through the Straits giving access thereto, in accordance with the generally accepted definition of those terms in the law of the sea.

In its capacity as a littoral State, Israel will gladly offer port facilities to the ships of all nations and all flags exercising free passage in the Gulf of Aqaba. We have received with gratification the assurances of leading maritime Powers that they foresee a normal and regular flow of traffic of all cargoes in the Gulf of Aqaba.

Israel will do nothing to impede free and innocent passage by ships of Arab countries bound to Arab ports or to any other destination.

Israel is resolved on behalf of vessels of Israel registry to exercise the right of free and innocent passage and is prepared to join with others to secure universal respect of this right.

Israel will protect ships of its own flag exercising the right of free and innocent passage on the high seas and in international waters.

Interference, by armed force, with ships of Israel flag exercising free and innocent passage in the Gulf of Aqaba and through the Straits of Tiran, will be regarded by Israel as an attack entitling it to exercise its inherent right of self-defence under Article 51 of the Charter and to take all such measures as are necessary to ensure the free and innocent passage of its ships in the Gulf and in the Straits.

We make this announcement in accordance with the accepted principles of international law under which all States have an inherent right to use their forces to protect their ships and their rights against interference by armed force. My Government naturally hopes that this contingency will not occur.

In a public address on 20 February, President Eisenhower stated:

"We should not assume that if Israel withdraws, Egypt will prevent Israeli shipping from using the Suez Canal or the Gulf of Aqaba."

This declaration has weighed heavily with my Government in determining its action today.

Israel is now prepared to withdraw its forces from the Gulf of Aqaba and the Straits of Tiran in the confidence that there will be continued freedom of navigation for international and Israeli shipping in the Gulf of Aqaba and through the Straits of Tiran.

We propose that a meeting be held immediately between the Chief of Staff of the Israel Defence Army and the Commander of the United Nations Emergency Force in order to arrange for the United Nations to take over its responsibilities in the Sharm el-Sheikh area.

The Government of Israel announces that it is making a complete withdrawal from the Gaza strip in accordance with General Assembly resolution (I) of 2 February 1957 (A/RES/460). It makes this announcement on the following assumptions:

(a) That on its withdrawal the United Nations Forces will be deployed in Gaza and that the takeover of Gaza from the military and civilian control of Israel will be exclusively by the United Nations Emergency Force.

(b) It is further Israel's expectation that the United Nations will be the agency to be utilized for carrying out the functions enumerated by the Secretary-General, namely:

"safeguarding life and property in the area by providing efficient and effective police protection; as will guarantee good civilian administration; as will assure maximum assistance to the United Nations refugee programme; and as will protect and foster the economic development of the territory and its people." (*A/PV.659, page 17*)

(c) It is further Israel's expectation that the aforementioned responsibility of the United Nations in the administration of Gaza will be maintained for a transitory period from the takeover until there is a peace settlement, to be sought as rapidly as possible, or a definitive agreement on the future of the Gaza strip.

It is the position of Israel that if conditions are created in the Gaza strip which indicate a return to the conditions of deterioration which existed previously, Israel would reserve its freedom to act to defend its rights.

Accordingly, we propose that a meeting be held immediately between the Chief of Staff of the Israel Defence Army and the Commander of the United Nations Emergency Force in order to arrange for the United Nations to take over its responsibilities in the Gaza area.

For many weeks, amidst great difficulty, my Government has sought to ensure that on the withdrawal from the Sharm el-Sheikh and the Gaza areas, circumstances would prevail which would prevent the likelihood of belligerent acts.

We record with gratitude the sympathetic efforts of many Governments and delegations to help bring about a situation which would end the insecurity prevailing for Israel and her neighbours these many years. In addition to the considerations to which I have referred, we place our trust in the vigilant resolve of the international community that Israel, equally with all Member States, enjoy its basic rights of freedom from fear of attack; freedom to sail the high seas and international waterways in peace; freedom to pursue its national destiny in tranquillity without the constant peril which has surrounded it in recent years.

In this reliance we are embarking upon the course which I have announced today.

May I now add these few words to the States in the Middle East area and, more specifically, to the neighbours of Israel:

We all come from an area which is a very ancient one. The hills and the valleys of the region have been witnesses to many wars and many conflicts. But that is not the only thing which characterizes that part of the world from which we come. It is also a part of the world which is of an ancient culture. It is that part of the world which has given to humanity three great religions. It is also that part of the world which has given a code of ethics to all humanity. In our countries, in the entire region, all our peoples are anxious for and in need of a higher standard of living, of great programmes of development and progress.

Can we, from now on—all of us—turn a new leaf and, instead of fighting with each other, can we all, united, fight poverty and disease and illiteracy? Is it possible for us to put all our efforts and all our energy into one single purpose, the betterment and progress and development of all our lands and all our peoples?

I can here pledge the Government and the people of Israel to do their part in this united effort. There is no limit to what we are prepared to contribute so that all of us, together, can live to see a day of happiness for our peoples and see again from that region a great contribution to peace and happiness for all humanity.

Statements of Fourteen Maritime States Concerning Freedom of Navigation in the strait of Tiran and the Gulf of Aqaba, March 1,4 and 8, 1957*

* 11 U.N. GAOR 1280 (1957)(extract from a statement by Mr.Georges-Picot of France, at the General Assembly, March 1 1957); 11 U.N. GAOR 1280 (1957) (extract from a statement by Mr. Canas of Costa Rica at the General Assembly, March 1, 1957); 11 U.N. GAOR 1283 (1957) (extract from a statement by Commander Woble of the United Kingdom, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1286 (1957) (extract from a statement by Dr. Vitetti of Italy, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1288 (1957) (extract from a statement by Dr.Schumann of the Netherlands, at the General Assembly,

March 4,1957), 11 U.N. GAOR 1291 (1957) (extract from a statement by Sir Leslie Munro of New Zealand, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1294 (1957) (extract from a statement by Dr. Walker of Australia, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1295 (1957) (extract form a statement by Mr. van Langehove of Belgium, at the General Assembly, March 4, 1957); 11 U.N.GAOR 1296 (1957)(extract from a statement by Mr. Pearson of Canada, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1300 (1957) (extract from a statement by Mr. Engen of Norway, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1302 (1957) (extract from a statement by Mr. Sandler of Sweden, at the General Assembly, March 4, 1957); U.N. GAOR 1303 (1957) (extract from a statement by Dr. Garin of Portugal, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1303 (1957) (extract from a statement by Mr. Eskelund of Denmark, at the General Assembly, March 4, 1957); 11 U.N. GAOR 1319 (1957) (extract form a statement by Mr. Thors of Iceland, at the General Assembly, March 8, 1957).

France

The French Government considers that the Gulf of Aqaba, by reason partly of its breadth and partly of the fact that its shores belong to four different States, constitutes international waters. Consequently it believes that, in conformity with international law, freedom of navigation should be ensured in the Gulf through the straits which give access to it. In these circumstances no nation has the right to prevent the free and innocent passage of ships, whatever their nationality or type.

The French Government, certainly, intends to exercise its right of free navigation effectively in the Gulf of Aqaba and through the Straits of Tiran. It considers that any obstruction of its freedom of passage would be contrary to international law and would, accordingly, entail a possible resort to the measures authorized by Article 51 of the United Nations Charter.

It would like to take this opportunity of stating that in its view none of the States bordering on the Gulf of Aqaba is in a state of war with any other State and that consequently Israel's position appears to it to be perfectly in accord with international law.

Furthermore, the French Government considers that both resolution 1125 (XI), adopted by the General Assembly on 2 February 1957 and the Secretary-General's statement of 22 February [*659th meeting*] confer upon the United Nations Emergency Force the task, as soon as Israel's troops are withdrawn, of taking over the positions at present occupied by the latter along the Gulf of Aqaba and of remaining there until such time as a settlement agreed on between the parties or an international agreement determining navigation conditions in these free waters ensures that there will be no further risk of resort to warlike acts.

Costa Rica

We started from the assumption that a war, a situation of belligerency, is by definition bilateral; that there cannot be a unilateral war or a unilateral belligerency and that, therefore, the Assembly could not deal properly with the very unhappy events of October 1956 unless it kept before it the whole picture of the situation. . . .

My delegation also wishes to support the statement made here today by the representatives of the United States and France on freedom of navigation and other legal points which were discussed in the Assembly. Those statements are in harmony with the principles of international coexistence in which my country believes and which, in our opinion, are reflected in all the Articles of the United Nations Charter.

United Kingdom

I shall speak, first, about the Gulf of Aqaba and the Straits of Tiran. I listened, at the 665th meeting, with great attention when our distinguished colleague from India, Mr. Krishna Menon, argued that the Straits of Tiran were not an international waterway. Although I admired the ingenuity of his reasoning and the wealth of his examples, I fear that I could not follow him to his conclusions, for he overlooked one fact simple enough in itself but, as I see it, essential to consideration of this problem; the fact that, unlike the fjords of Norway or Hudson Bay in Canada, or the Hudson River here in New York, or any of the other instances which Mr. Menon quoted, the Gulf of Aqaba is not only bounded at its narrow point of entry (that is, the Straits of Tiran) by two different countries, Egypt and Saudi Arabia, but contains at its head the ports of two further countries: Jordan and Israel. This simple, undeniable fact is in itself enough to put it in a different category from any of the inland waters mentioned by Mr. Krishna Menon.

It is the view of Her Majesty's Government in the United Kingdom that the Straits of Tiran must be regarded as an international waterway, through which the vessels of all nations have a right of passage. Her Majesty's Government will assert this right on behalf of all British shipping and is prepared to join with others to secure general recognition of this right.

Now we all, of course, assume that, when Israel's forces are withdrawn from the Sharm el Sheikh area, units of the United Nations Emergency Force will be stationed there, and there is no reason to think that any attempt will be made to interfere with free and innocent passage through the Straits. As Mr. Lodge said on 1 March:

> "Once Israel has completed its withdrawal in accordance with the resolutions of the General Assembly, and in view of the measures taken by the United Nations to deal with the situation, there is no basis for either party to the Armistice Agreement to assert or exercise any belligerent rights." [*666th meeting, para. 36.*]

Italy

As far, in particular, as free navigation in the Gulf of Aqaba and the Straits of Tiran are concerned, I do not need to restate here that we consider that the Gulf of Aqaba is an international waterway and that no nation has the right to prevent free and innocent passage in the Gulf of Aqaba and through the Straits giving access thereto. If there is

anything that I have to add to this statement, it is only that I cannot share the liberal interpretation which the representative of India, Mr. Krishna Menon, gave to this principle at the 665th meeting, when he said that the right of innocent passage actually meant that: "first of all, one must prove innocence. Innocence depends upon the character of the party . . . ; it depends upon the purpose of the passage, and also upon the freight that is carried." [*665th meeting, para. 62.*] This interpretation would nullify the rule of innocent passage, since it is obvious that, if it were valid, the littoral States would no longer have the duty of justifying their refusal of passage to a vessel on specific occasions and for specific reasons; rather, it would rest with the vessel to prove that its passage was innocent.

Netherlands

The Netherlands Government is in full agreement with the statements made by Israel, the United States, France and a number of other countries to the effect that passage through the Straits of Tiran should be free, open and unhindered for the ships of all nations. My Government bases its opinion on the following reasons.

First, inasmuch as the Gulf of Aqaba is bordered by four different States and has a width in excess of the three miles of territorial waters of four littoral States on either side, it is, under the rules of international law, to be regarded as part of the open sea.

Secondly, the Straits of Tiran consequently are, in the legal sense, straits connecting two open seas, normally used for international navigation.

Thirdly, in regard to such straits, there is a right of free passage even if the straits are so narrow that they fall entirely within the territorial waters of one or more States. This rule was acknowledged by the International Court of Justice in the case of the Corfu Channel[1] and also the International Law Commission in its report for 1956 [*A/3159*].

Fourthly, if a strait falls entirely within the territorial waters of one or more of the littoral States, there is still a right of innocent passage, but then the littoral States have the right, if necessary, to verify the innocent character of the passage.

Fifthly, this right of verification, however, does not exist in those cases where the strait connects two parts of the open sea. It must, therefore, be concluded that all States have the right of free and unhampered passage for their vessels through the Straits of Tiran.

[1] *Corfu Channel case, Judgment of December 15th, 1949: I.C.J. Reports 1949, p. 244.*

New Zealand

The New Zealand Government shares the view expressed by the United Kingdom and other Governments that the Straits of Tiran must be regarded as an international waterway through which the vessels of all nations have a right of passage. We believe that the declarations made by the United States, the United Kingdom and other leading maritime Powers of their readiness to assert this right on behalf of their shipping and to join with others to secure a general recognition of this right, point to a solution in respect of the Gulf of Aqaba which should satisfy Israel's legitimate interests.

Australia

In particular I am instructed by my Government to state that it is the view of the Australian Government that the Straits of Tiran must be regarded as an international waterway through which vessels of all nations have a right of passage.

Belgium

As I said on 19 January 1957 [*642nd meeting*] and reiterated on 1 February [*649th meeting*], we share the opinion that the international character of the Gulf of Aqaba implies the right of innocent passage through the Straits of Tiran and the Gulf in accordance with recognized rules of international law.

I pointed out on 1 February that each party to the Armistice Agreement must, in accordance with one of its fundamental provisions, refrain completely from any aggressive action against the people or the armed forces of the other. This is, moreover, an overriding principle of the Charter, except, of course, in the case of self-defence against armed aggression.

Canada

Concerning the Gulf of Aqaba and the Straits of Tiran, I suggested then that there should be no interference with innocent passage through those waters, nor the assertion of any claim to belligerent rights there. I was not suggesting, and I am not now suggesting, that legal rights in those waters should be determined by the Assembly in any particular way, or that this determination, which would have to be made by a legal body, should be prejudiced by us. I do not conceive it to be the function of the Assembly to decide legal questions. What I do suggest,

hoever, is that, in order to maintain a situation of peace and quiet, in order to minimize the chance of a new outbreak of fighting, the Assembly should recommend, and the parties should agree—as a political and not a legal act—that there should be no interference with the innocent passage of ships through the waters concerned. That would be one way of bringing about an improved situation in the area.

Does any Member of the General Assembly believe that interference with such innocent passage will not provoke conflict and thereby threaten the peace of the area? Is it not then our duty to do what we can to avoid such a result? If we feel that way, then, in my view, we do not discharge that duty merely by coming to certain conclusions regarding the international legal aspects of the question which remain to be determined.

Norway

With respect to shipping in the Straits of Tiran, it is the view of the Government of Norway that these waters constitute an international waterway and that no State bordering on this waterway should undertake measures which would hamper the right of ships of any nation to innocent passage in these waters. This view, we hold, is fully consistent with accepted practices and principles of international law and consequently, they are in accordance with the Charter of the United Nations. The question of determining the legal status of these waters is a different matter and should be dealt with only by a legal body.

Sweden

My Government attaches great importance to the principle of free navigation and considers it essential that this principle be held in respect. This implies, in the opinion of my Government, *inter alia* that the right of innocent passage through the straits connecting the Red Sea and the international waters in the Gulf of Aqaba should be recognized.

Furthermore, the Swedish delegation is of the opinion that the scrupulous observance of the Armistice Agreement excludes any active act of belligerency on land, in the air or on the sea.

Portugal

On this occasion we wish also to state that the assumptions and expectations with which the Government of Israel has announced its important decision are considered by my delegation, in a general way,

as understandable and falling within the wide context of the recommendations made by the Secretary-General in his reports or of previous resolutions of the Assembly, namely resolution 1125 (XI) of 2 February 1957, both as regards the question of innocent passage in the Gulf of Aqaba and the Straits of Tiran, and the temporary arrangements for the maintenance of peaceful conditions in the Gaza strip.

Denmark

In the view of the Danish Government, the Straits of Tiran must be regarded as an international waterway through which vessels of all nations have a right of passage. Several countries border on the Gulf of Aqaba and have ports therein. Therefore, in the opinion of the Danish Government, the Straits of Tiran cannot be treated differently from straits which are generally recognized as international straits.

Iceland

With regard to the Gulf of Aqaba, my Government wishes to associate itself with the declarations made by many delegations here that the Gulf and the Straits of Tiran should be open for international navigation and that vessels of all nations have a right of passage. Any dispute in that matter could and should be settled by the International Court of Justice —and by no other means.

United Nations Security Council Resolution 242
Concerning Principles for a Just and Lasting Peace
in the Middle East, November 22, 1967*

* 22 U.N. SCOR (1382d mtg.) at 8 (1967), U.N. Doc. S/RES/242 (1967).

Resolution 242 (1967)

of 22 November 1967

The Security Council,

Expressing its continuing concern, with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. *Affirms* that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. *Affirms further* the necessity

(*a*) For guaranteeing freedom of navigation through international waterways in the area;

(*b*) For achieving a just settlement of the refugee problem;

(*c*) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

3. *Requests* the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

4. *Requests* the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

Adopted unanimously at the 1382nd meeting.

Decision

On 8 December 1967, the following statement which reflected the view of the members of the Council was circulated by the President as a Security Council document (S/8289):[12]

"As regards document S/8053/Add.3,[13] brought to the attention of the Security Council, the members, recalling the consensus reached at its 1366th meeting on 9 July 1967, recognize the necessity of the enlargement by the Secretary-General of the number of observers in the Suez Canal zone and the provision of additional technical material and means of transportation."

United Nations Security Council Resolution 338, October 22, 1973*

* U.N. Doc. S/RES/338 (1973).

Resolution 338 (1973)

of 22 October 1973

The Security Council

1. *Calls upon* all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;

2. *Calls upon* the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all of its parts;

3. *Decides* that, immediately and concurrently with the cease-fire, negotiations shall start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

Adopted at the 1747th meeting by 14 votes to none[21]

Treaty of Peace (Article V and Agreed Minutes to Article V) (Egypt-Israel)
March 26, 1979*

* 18 I.L.M. 362, 365 and 392 (1979).

EGYPT-ISRAEL: TREATY OF PEACE
[Done at Washington, March 26, 1979]

TREATY OF PEACE BETWEEN THE ARAB REPUBLIC OF EGYPT AND THE STATE OF ISRAEL

ARTICLE V

1. Ships of Israel, and cargoes destined for or coming from Israel, shall enjoy the right of free passage through the Suez Canal and its approaches through the Gulf of Suez and the Mediterranean Sea on the basis of the Constantinople Convention of 1888, applying to all nations. Israeli nationals, vessels and cargoes, as well as persons, vessels and cargoes destined for or coming from Israel, shall be accorded non-discriminatory treatment in all matters connected with usage of the canal.

2. The Parties consider the Strait of Tiran and the Gulf of Aqaba to be international waterways open to all nations for unimpeded and non-suspendable freedom of navigation and overflight. The Parties will respect each other's right to navigation and overflight for access to either country through the Strait of Tiran and the Gulf of Aqaba.[*]

ARTICLE V

The second sentence of paragraph 2 of Article V shall not be construed as limiting the first sentence of that paragraph. The foregoing is not to be construed as contravening the second sentence of paragraph 2 of Article V, which reads as follows:

> "The Parties will respect each other's right to navigation and overflight for access to either country through the Strait of Tiran and the Gulf of Aqaba."

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*[See Agreed Minutes to Articles IV, V, and VI at I.L.M. page 392.]

6. Suez Canal

Constantinople Convention Respecting the Free Navigation of the Suez Maritime Canal, October 29, 1888*

* U.S. Dept. State, The Suez Canal Problem (No. 6392) at 16-20 (1956); 171 Parry's T.S. 242; 3 AM. J. INT'L L. 123 (supp. 1909).

CONVENTION RESPECTING THE FREE NAVIGATION OF THE SUEZ MARITIME CANAL.

Signed at Constantinople, October 29, 1888.

In the Name of Almighty God, her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the Emperor of Germany, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of Spain, and in his name the Queen Regent of the Kingdom; the President of the French Republic; His Majesty the King of Italy; His Majesty the King of the Netherlands, Grand Duke of Luxemburg, etc.; His Majesty the Emperor of All the Russias; and His Majesty the Emperor of the Ottomans; wishing to establish, by a Conventional Act, a definite system destined to guarantee at all times, and for all the powers, the free use of the Suez Maritime Canal, and thus to complete the system under which the navigation of this canal has been placed by the Firman of His Imperial Majesty the Sultan, dated the 22nd February, 1866 (2 Zilkádé, 1282), and sanctioning the concessions of His Highness the Khedive, have named as their Plenipotentiaries, that is to say: —

(Here follow the names.)

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1. The Suez Maritime Canal shall always be free and open, in time of war as in time of peace, to every vessel of commerce or of war, without distinction of flag.

Consequently, the high contracting parties agree not in any way to interfere with the free use of the canal, in time of war as in time of peace.

The canal shall never be subjected to the exercise of the right of blockade.

ARTICLE 2. The high contracting parties, recognizing that the Fresh-Water Canal is indispensable to the Maritime Canal, take note of the engagements of His Highness the Khedive towards the Universal Suez Canal Company as regards the Fresh-Water Canal; which engagements are stipulated in a convention bearing date the 18th March, 1863, containing an *exposé* and four articles.

They undertake not to interfere in any way with the security of that

canal and its branches, the working of which shall not be exposed to any attempt at obstruction.

ARTICLE 3. The high contracting parties likewise undertake to respect the plant, establishments, buildings, and works of the Maritime Canal and of the Fresh-Water Canal.

ARTICLE 4. The Maritime Canal remaining open in time of war as a free passage, even to the ships of war of belligerents, according to the terms of article 1 of the present treaty, the high contracting parties agree that no right of war, no act of hostility, nor any act having for its object to obstruct the free navigation of the canal, shall be committed in the canal and its ports of access, as well as within a radius of three marine miles from those ports, even though the Ottoman Empire should be one of the belligerent powers.

Vessels of war of belligerents shall not revictual or take in stores in the canal and its ports of access, except in so far as may be strictly necessary. The transit of the aforesaid vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and without any other intermission than that resulting from the necessities of the service.

Their stay at Port Said and in the roadstead of Suez shall not exceed 24 hours, except in case of distress. In such case they shall be bound to leave as soon as possible. An interval of 24 hours shall always elapse between the sailing of a belligerent ship from one of the ports of access and the departure of a ship belonging to the hostile power.

ARTICLE 5. In time of war belligerent powers shall not disembark nor embark within the canal and its ports of access either troops, munitions, or materials of war. But in case of an accidental hindrance in the canal, men may be embarked or disembarked at the ports of access by detachments not exceeding 1,000 men, with a corresponding amount of war material.

ARTICLE 6. Prizes shall be subjected, in all respects, to the same rules as the vessels of war of belligerents.

ARTICLE 7. The powers shall not keep any vessel of war in the waters of the canal (including Lake Timsah and the Bitter Lakes).

Nevertheless, they may station vessels of war in the ports of access of Port Said and Suez, the number of which shall not exceed two for each power.

This right shall not be exercised by belligerents.

ARTICLE 8. The agents in Egypt of the signatory powers of the present treaty shall be charged to watch over its execution. In case of any event threatening the security or the free passage of the canal, they shall meet on the summons of three of their number under the presidency of their Doyen, in order to proceed to the necessary verifications. They shall inform the Khedival government of the danger which they may have perceived, in order that that government may take proper steps to insure the protection and the free use of the canal. Under any circumstances, they shall meet once a year to take note of the due execution of the treaty.

The last mentioned meetings shall take place under the presidency of a special commissioner nominated for that purpose by the Imperial Ottoman Government. A commissioner of the Khedive may also take part in the meeting, and may preside over it in case of the absence of the Ottoman commissioner.

They shall especially demand the suppression of any work or the dispersion of any assemblage on either bank of the canal, the object or effect of which might be to interfere with the liberty and the entire security of the navigation.

ARTICLE 9. The Egyptian government shall, within the limits of the powers resulting from the Firmans, and under the conditions provided for in the present treaty, take the necessary measures for insuring the execution of the said treaty.

In case the Egyptian government should not have sufficient means at its disposal, it shall call upon the Imperial Ottoman government, which shall take the necessary measures to respond to such appeal; shall give notice thereof to the signatory powers of the Declaration of London of the 17th March, 1885; and shall, if necessary, concert with them on the subject.

The provisions of articles 4, 5, 7, and 8 shall not interfere with the measures which shall be taken in virtue of the present article.

ARTICLE 10. Similarly, the provisions of articles 4, 5, 7, and 8, shall not interfere with the measures which His Majesty the Sultan and His Majesty the Khedive, in the name of His Imperial Majesty, and within the limits of the Firmans granted, might find it necessary to take for securing by their own forces the defence of Egypt and the maintenance of public order.

In case His Imperial Majesty the Sultan, or His Highness the Khedive, should find it necessary to avail themselves of the exceptions for which this article provides, the signatory powers of the Declaration of London shall be notified thereof by the Imperial Ottoman Government.

It is likewise understood that the provisions of the four articles aforesaid shall in no case occasion any obstacle to the measures which the Imperial Ottoman Government may think it necessary to take in order to insure by its own forces the defence of its other possessions situated on the eastern coast of the Red Sea.

ARTICLE 11. The measures which shall be taken in the cases provided for by articles 9 and 10 of the present treaty shall not interfere with the free use of the canal. In the same cases, the erection of permanent fortifications contrary to the provisions of article 8 is prohibited.

ARTICLE 12. The high contracting parties, by application of the principle of equality as regards the free use of the canal, a principle which forms one of the bases of the present treaty, agree that none of them shall endeavor to obtain with respect to the canal territorial or commercial advantages or privileges in any international arrangements which may be concluded. Moreover the rights of Turkey as the territorial power are reserved.

ARTICLE 13. With the exception of the obligations expressly provided by the clauses of the present treaty, the sovereign rights of His Imperial Majesty the Sultan, and the rights and immunities of His Highness the Khedive, resulting from the Firmans, are in no way affected.

ARTICLE 14. The high contracting parties agree that the engagements resulting from the present treaty shall not be limited by the duration of the acts of concession of the Universal Suez Canal Company.

ARTICLE 15. The stipulations of the present treaty shall not interfere with the sanitary measures in force in Egypt.

ARTICLE 16. The high contracting parties undertake to bring the present treaty to the knowledge of the states which have not signed it, inviting them to accede to it.

ARTICLE 17. The present treaty shall be ratified, and the ratifications shall be exchanged at Constantinople within the space of one month, or sooner if possible.

In faith of which the respective plenipotentiaries have signed the present treaty, and have affixed to it the seal of their arms.

'Done at Constantinople, the 29th day of the month of October, in the year 1888.

For GREAT BRITAIN	(L. S.)	W. A. WHITE
GERMANY	(L. S.)	RADOWITZ
AUSTRIA-HUNGARY	(L. S.)	CALICE
SPAIN	(L. S.)	MIGUEL FLOREZ Y GARCIA
FRANCE	(L. S.)	G. DE MONTEBELLO
ITALY	(L. S.)	A. BLANC
NETHERLANDS	(L. S.)	GUS. KEUN
RUSSIA	(L. S.)	NÉLIDOW
TURKEY	(L. S.)	M. SAÏD

United Nations Security Council Resolution Concerning the Passage of Israeli Shipping Through the Suez Canal, September 1, 1951*

* 6 U.N. SCOR. (558th mtg.) at 2, U.N. Doc. S/2322 (1951).

"*The Security Council,*

"1. *Recalling* that in its resolution of 11 August 1949 (S/1376) relating to the conclusion of Armistice Agreements between Israel and the neighbouring Arab States it drew attention to the pledges in these Agreements 'against any further acts of hostility between the Parties',

"2. *Recalling* further that in its resolution of 17 November 1950 (S/1907 and Corr.1), it reminded the States concerned that the Armistice Agreements to which they are parties contemplate 'the return of permanent peace in Palestine', and therefore urged them and other States in the area to take all such steps as will lead to the settlement of the issues between them,

"3. *Noting* the report of the Chief of Staff of the Truce Supervision Organization to the Security Council of 12 June 1951 (S/2194),

"4. *Further noting* that the Chief of Staff of the Truce Supervision Organization recalled the statement of the senior Egyptian delegate in Rhodes on 13 January 1949, to the effect that his delegation was 'inspired with every spirit of co-operation, conciliation and a sincere desire to restore peace in Palestine', and that the Egyptian Government has not complied with the earnest plea of the Chief of Staff made to the Egyptian delegate on 12 June 1951, that it desist from the present practice of interfering with the passage through the Suez Canal of goods destined for Israel,

"5. *Considering* that since the armistice régime, which has been in existence for nearly two and a half years, is of a permanent character, neither party can reasonably assert that it is actively a belligerent or requires to exercise the right of visit, search, and seizure for any legitimate purpose of self-defence,

"6. *Finds* that the maintenance of the practice mentioned in paragraph 4 above is inconsistent with the objectives of a peaceful settlement between the parties and the establishment of a permanent peace in Palestine set forth in the Armistice Agreement;

"7. *Finds further* that such practice is an abuse of the exercise of the right of visit, search and seizure;

"8. *Further finds* that that practice cannot in the prevailing circumstances be justified on the ground that it is necessary for self-defence;

"9. *And further noting* that the restrictions on the passage of goods through the Suez Canal to Israel ports are denying to nations at no time connected with the conflict in Palestine valuable supplies required for their economic reconstruction, and that these restrictions together with sanctions applied by Egypt to certain ships which have visited Israel ports

represent unjustified interference with the rights of nations to navigate the seas and to trade freely with one another, including the Arab States and Israel,

"10. *Calls upon* Egypt to terminate the restrictions on the passage of international commercial shipping and goods through the Suez Canal wherever bound and to cease all interference with such shipping beyond that essential to the safety of shipping in the Canal itself and to the observance of the international conventions in force."

6. Since no one has asked for a vote by division, I propose putting the draft resolution to the vote as a whole.

A vote was taken by show of hands as follows:

In favour: Brazil, Ecuador, France, Netherlands, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia.

Abstentions: China, India, Union of Soviet Socialist Republics.

The draft resolution was adopted by 8 votes to none, with 3 abstentions [1].

7. Mr. EBAN (Israel): The delegation of Israel, having brought this question before the Security Council, wishes only to express its appreciation for the earnest and positive attention which the Council has devoted to its complaint. By rejecting any concept of one-sided belligerency or unilateral blockade, the Security Council has asserted the true nature of the General Armistice Agreement [2] as a measure designed to lead to permanent peace. While it is now unhappily clear that, for over two and a half years, Israel has been suffering the material loss and the political affront of a violation of the General Armistice Agreement, it may henceforward be hoped that all hostile or warlike acts based on the assumption of a state of war will be renounced.

8. Countries such as Israel, which depend so vitally upon their maritime communications, must react with great sensitivity whenever the doctrine of the freedom of the seas is violated to their detriment.

9. I did not reply to the recent detailed addresses of the representative of Egypt [*553rd, 555th, 556th meetings*] since they were so largely concerned with matters unrelated to the agenda, including critical observations on the internal parliamentary proceedings of some countries and the bilateral relations of others. However, I must now express my Government's deep regret that the Egyptian representative felt himself free to assail Israel in such unbridled and vehement terms, using the language and terms of familiar and deeply rooted prejudice. Such epithets as "Israel vandalism" and "blood-dripping steps", quite apart from their provocative nature, cannot be reconciled with Egypt's own initiative in first launching and now seeking to maintain

[1] The resolution as adopted was subsequently issued as a document under the symbol S/2322.

[2] See *Official Records of the Security Council, Fourth Year*, Special Supplement No. 3.

conditions of hostility against Israel. At any rate, the United Nations clearly desires that Egypt and Israel shall not relapse into belligerency either of attitude or of action, but shall advance towards a final settlement. In order to facilitate such an advance, the Government of Israel stands ready, as always, to meet with representatives of Egypt for a discussion and total settlement of all outstanding questions.

10. The history of the truce and the armistice reveals that Israel and the Arab States have never reached agreement without sitting together, and have never sat together without reaching an agreement. But the scrupulous maintenance of existing agreements is the only possible starting point for a new advance.

11. The intimate relations of Egypt and Israel reach back into the most dramatic and creative periods of history. By reason of their proximity, of their geographical location at the crossroads of three continents, of the traditions and culture which their peoples represent in their modern era of renewed independence, Egypt and Israel are well endowed for the task of uniting their efforts to lay the foundations of regional peace. By vindicating the Armistice Agreement in its letter and spirit, the Security Council, in its resolution today, has contributed its influence and encouragement to that end.

12. Mr. LACOSTE (France) (*translated from French*): Now that the Security Council has adopted the draft resolution submitted by the United States, United Kingdom and French delegations on 16 August last [*552nd meeting*], I feel I should repeat that, since the United Nations was first seized on the matter of the restrictions imposed by the Egyptian Government on freedom of transit through the Suez Canal, the Council as a whole — and the joint authors of the resolution in particular — have been most anxious not to move too hastily to a conclusion.

13. Despite the legitimate impatience of all the nations whose interests have in any way been harmed by those restrictions on their overseas trade passing through that great international waterway — which from the very beginning was explicitly declared open to all nations at all times — the Security Council has taken all the time necessary for a thorough study of the situation brought about by the restrictive action of the Egyptian Government, and has given the latter a full opportunity to reconsider its decisions in the matter.

14. More than seven months have elapsed between the time the Council first heard the Israel delegation's complaint in November last [*518th meeting*] and the statements of various delegations, including those of the United Kingdom [*522nd meeting*] and France [*521th meeting*], emphasizing the importance they attached to a speedy restoration of freedom of transit through the Canal, and the moment in June last when the Council received the report [*S/2194*] of the Chairman of the Special Committee, whom it had asked to examine the case.

15. Although the Israel Government repeated its complaint on 11 July [*S/2241*], shortly after the publication of General Riley's report, the Council continued in its discussions to display notable moderation, patience and consideration for the Egyptian delegation and the Egyptian Government.

16. I may add that the three delegations which sponsored the draft resolution just adopted by the Council have always been most anxious, as they have shown by their deeds, to conciliate Egypt and at the same time to promote the chances of an amicable settlement of a question which, by its nature and the area it involves, concerns the whole of the international community. It is surely unnecessary for me to remind the Council of the successive postponements which were granted, either at the instance of one of the three delegations which submitted the draft or of all three delegations, or at the individual or collective suggestion of other representatives, even before the draft resolution was submitted to the Council and, later, during the course of the discussion.

17. Surely no one can complain that the Council was unduly hurried, that its decision was taken suddenly or adopted without forethought, without a full knowledge of the facts, or without giving the Egyptian delegation every opportunity of making itself understood.

18. In fact the Council, and especially the three delegations which sponsored the resolution that has just been adopted, expected much better results of these successive postponements. The aim was not merely to shed as much light as possible on a situation which, it must be said, was already well known. It was also to give the Egyptian Government time to find a way of adapting its behaviour to the obligations incumbent upon it, on the one hand under the Armistice Agreement which it had concluded with Israel, and on the other hand under the international statute of the Suez Canal, and at the same time to combine this return to the observance of its obligations with the exigencies of its concern for its national interests, in so far as these are legitimate.

19. It is therefore extremely disappointing and regrettable for many members of this Council, and certainly for my delegation, that the Egyptian Government has been unable to find such a solution and that it has not made any suggestion which might give rise to such a solution. Such a settlement would have been far preferable. Nevertheless, we do not abandon hope.

20. In calling upon Egypt to terminate the restrictions on the passage of international commercial shipping and goods through the Suez Canal, the Council — I think I am interpreting its wishes by saying this, and I am certainly expressing the feeling of my delegation — has had no intention of addressing an "ultimatum" or a "*diktat*" to Egypt, to employ words used the other day by one of our colleagues. Having ascertained on repeated occasions that there was no immediate or predictable hope of a concrete solution to an abnormal situation which has caused

great harm to the interests of the international community, and the prolongation of which goes to increase a tension prejudicial to the maintenance of peace and security in the Near East, the Council has had to find a way out of the impasse. That is the aim of the resolution it has just adopted.

21. I feel sure, however, that it is the firm hope, desire and purpose of the Council that Egypt's compliance with the request which is now being made will, if anything, lead to greater security and prosperity for Egypt and for all the States in the Near East. In any case it is the firm hope, desire and purpose of my Government that this should be the outcome of the resolution which we, together with the United States and United Kingdom Governments, have proposed to the Council and which the Council, I am convinced, has adopted in the spirit of peace which is the very essence of the United Nations and the Council's own *raison d'être*.

22. The PRESIDENT (*translated from French*): If there are no more speakers, we shall consider that we have completed our work for today.

23. Mahmoud FAWZI Bey (Egypt): The first statement we heard this morning, which was made by the representative of Israel, speaks of peace. I have already commented on such talk by the representative of Israel. Among other things, I said that peace is not words. Peace is acts and facts. Peace is not a million people chased out of their country, deprived of home and livelihood and denied the most elementary of human rights.

24. As for the eloquent statement we have just heard from the representative of France, this also has been answered in great detail in my previous statements to the Council. With his usual eloquence, the representative of France speaks of the opportunities and time which were given to Egypt in order to find a solution for the present question. I still maintain that time was only used by those who today complain of the position of Egypt in order to heap one ultimatum upon another, in order to insist more and more on an unconditional surrender. This is a far cry from a solution.

25. Many of the countries represented around this table have even regretted their insistence upon an unconditional surrender in connexion with the Second World War. I am not going into any detail in this regard. Still, in connexion with Egypt, toward which they claim to be friendly, they have insisted constantly upon an unconditional surrender.

26. The representative of France spoke of the time and opportunity given to Egypt to find a solution, yet neither he nor anyone else around this table could cite one single instance in which anyone came to Egypt with one single suggestion for a solution. They always said that Egypt must surrender unconditionally, that Egypt must yield, and that would be the solution.

27. The statement of the representative of France reminds me of an incident which took place in the late

summer of 1948. At that time the town of Molehill, West Virginia, which had grown over the years, applied to the authorities in Washington for permission to be called from that time on the town of Mountain, West Virginia. Since that time it has been known as Mountain, West Virginia. That town, at least, had grown over the years, but in our discussions here for so many weeks, the claim of Israel, and those who stand with Israel, has not grown.

28. We might recall something which the representative of China said toward the end of the debate. He stated [*553rd meeting*] that Israel's claim was based on three assumptions: contravention by Egypt of the Suez Canal Convention, of international law and of the Israel-Egyptian General Armistice Agreement. The representative of China said at that late hour of our debate, after so many meetings had taken place, that that had yet to be proved. I say today, even after the adoption of this resolution by the Security Council, that the assumptions on which the claim of Israel was based — or on which it tried to base itself — have yet to be proved.

29. Obviously it is of no use for me to comment in any further detail upon these various matters, or upon any other points. I would simply submit that my statements still stand. I have tried in them, to the best of my modest ability, to outline the position of my Government, and I have fully reserved its rights in connexion with the present debate. Apart from that, I am going to exercise my freedom of silence.

30. The PRESIDENT (*translated from French*): Are there any more speakers? As there are none, I shall adjourn the meeting. The date of our next meeting will be decided later.

The meeting rose at 11.45 a.m.

Tripartite Statement Concerning the Nationalization of the Suez Canal Company (with annex), August 2, 1956*

* U.N. Dept. State, The Suez Canal Problem (No. 6392) at 34-36 (1956).

Three-Power London Talks: Tripartite Statement, August 2[8]

The Governments of France, the United Kingdom and the United States join in the following Statement;

1. They have taken note of the recent action of the Government of Egypt whereby it attempts to nationalise and take over the assets and the responsibilities of the Universal Suez Canal Company. This Company was organised in Egypt in 1856 under a franchise to build the Suez Canal and operate it until 1968. The Universal Suez Canal Company has always had an international character in terms of its shareholders, Directors and operating personnel and in terms of its responsibility to assure the efficient functioning as an international waterway of the Suez Canal. In 1888 all the Great Powers then principally concerned with the international character of the Canal and its free, open and secure use without discrimination joined in the Treaty and Convention of Constantinople.

This provided for the benefit of all the world that the international character of the Canal would be perpetuated for all time, irrespective of the expiration of the Concession of the Universal Suez Canal Company. Egypt as recently as October 1954 recognised that the Suez Canal is "a waterway economically, commercially and strategically of international importance", and renewed its determination to uphold the Convention of 1888.

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[8] Department of State press release No. 415.

[9] Text as attached to United Kingdom invitation to other governments to attend Suez Canal Conference in London.

2. They do not question the right of Egypt to enjoy and exercise all powers of a fully sovereign and independent nation, including the generally recognised right, under appropriate conditions, to nationalise assets, not impressed with an international interest, which are subject to its political authority. But the present action involves far more than a simple act of nationalisation. It involves the arbitrary and unilateral seizure by one nation of an international agency which has the responsibility to maintain and to operate the Suez Canal so that all the signatories to, and beneficiaries of, the Treaty of 1888 can effectively enjoy the use of an international waterway upon which the economy, commerce, and security of much of the world depends. This seizure is the more serious in its implications because it avowedly was made for the purpose of enabling the Government of Egypt to make the Canal serve the purely national purposes of the Egyptian Government, rather than the international purpose established by the Convention of 1888. Furthermore, they deplore the fact that as an incident to its seizure the Egyptian Government has had recourse to what amounts to a denial of fundamental human rights by compelling employees of the Suez Canal Company to continue to work under threat of imprisonment.

3. They consider that the action taken by the Government of Egypt, having regard to all the attendant circumstances, threatens the freedom and security of the Canal as guaranteed by the Convention of 1888. This makes it necessary that steps be taken to assure that the parties to that Convention and all other nations entitled to enjoy its benefits shall, in fact, be assured of such benefits.

4. They consider that steps should be taken to establish operating arrangements under an international system designed to assure the continuity of operation of the Canal as guaranteed by the Convention of October 29, 1888, consistently with legitimate Egyptian interests.

5. To this end they propose that a conference should promptly be held of parties to the Convention and other nations largely concerned with the use of the Canal. The invitations to such a conference, to be held in London, on August 16, 1956, will be extended by the Government of the United Kingdom to the Governments named in the Annex to this statement. The Governments of France and the United States are ready to take part in the conference.

Annex to Statement

Parties to the Convention of 1888.

Egypt	Italy	Spain	United Kingdom
France	The Netherlands	Turkey	U. S. S. R.

Other Nations largely concerned in the use of the Canal either through ownership of tonnage or pattern of trade.

Australia	Federal Republic of Germany	Indonesia	Norway
Ceylon	Greece	Iran	Pakistan
Denmark	India	Japan	Portugal
Ethiopia		New Zealand	Sweden
			United States

United Nations Security Council Resolution
Concerning the Question of the Suez Canal,
October 13, 1956*

* 11 U.N. SCOR Supp. (Oct.-Dec. 1956) at 47, U.N. Doc. S/3675 (1956).

DOCUMENT S/3675

Resolution adopted by the Security Council at its 743rd meeting, on 13 October 1956, concerning the question of the Suez Canal

(Original text: English and French)
(13 October 1956)

The Security Council,

Noting the declarations made before it and the accounts of the development of the exploratory conversations on the Suez question given by the Secretary-General of the United Nations and the Foreign Ministers of Egypt, France and the United Kingdom,

Agrees that any settlement of the Suez question should meet the following requirements:

1. There should be free and open transit through the Canal without discrimination, overt or covert - this covers both political and technical aspects;

2. The sovereignty of Egypt should be respected;

3. The operation of the Canal should be insulated from the politics of any country;

4. The manner of fixing tolls and charges should be decided by agreement between Egypt and the users;

5. A fair proportion of the dues should be alloted to development;

6. In case of disputes, unresolved affairs between the Universal Suez Maritime Canal Company and the Egyptian Government should be settled by arbitration with suitable terms of reference and suitable provisions for the payment of sums found to be due.

Résolution adoptée par le Conseil de sécurité à sa 743ème séance, le 13 octobre 1956, concernant la question du canal de Suez

(Texte original en anglais et en français)
(13 octobre 1956)

Le Conseil de sécurité,

Considérant les déclarations faites devant lui et les comptes rendus sur les entretiens d'exploration sur la question de Suez présentés par le Secrétaire général de l'Organisation des Nations Unies et les Ministres des affaires étrangères d'Egypte, de France et du Royaume-Uni,

Constate que tout règlement de l'affaire de Suez devra répondre aux exigences suivantes:

1. Le transit à travers le canal sera libre et ouvert sans discrimination directe ou indirecte, ceci étant vrai tant du point de vue politique que du point de vue technique;

2. La souveraineté de l'Egypte sera respectée;

3. Le fonctionnement du canal sera soustrait à la politique de tous les pays;

4. Le mode de fixation des péages et des frais sera décidé par un accord entre l'Egypte et les usagers;

5. Une équitable proportion des sommes perçues sera assignée à l'amélioration du canal;

6. En cas de différend, les affaires pendantes entre la Compagnie universelle du canal maritime de Suez et le Gouvernement égyptien seront réglées par un tribunal d'arbitrage dont la compétence et la mission seront clairement définies, avec des dispositions convenables pour le paiement des sommes qui pourraient être dues.

Egyptian Declaration on the Suez Canal and the Arrangements for its Operations, April 24, 1957*

* U.N. Doc. S/3818 (1957).

DOCUMENT S/3818

Letter from the Minister for Foreign Affairs of Egypt to the Secretary-General, transmitting the Declaration of the Egyptian Government, dated 24 April 1957, concerning the Suez Canal and the arrangements for its operation

[Original text: English]
[24 April 1957]

The Government of Egypt are pleased to announce that the Suez Canal is now open for normal traffic and will thus once again serve as a link between the nations of the world in the cause of peace and prosperity.

The Government of Egypt wish to acknowledge with appreciation and gratitude the efforts of the States

Lettre adressée au Secrétaire général par le Ministre des affaires étrangères de l'Egypte et transmettant la Déclaration du Gouvernement égyptien, en date du 24 avril 1957, relative au canal de Suez et aux arrangements concernant sa gestion

[Texte original en anglais]
[24 avril 1957]

Le Gouvernement égyptien a l'honneur de faire savoir que le canal de Suez est rendu à la circulation normale et qu'il va donc pouvoir à nouveau servir de lien entre les nations du monde, dans l'intérêt de la paix et de la prospérité.

Le Gouvernement égyptien tient à dire sa gratitude aux Etats et aux peuples du monde qui ont aidé à

and peoples of the world who contributed to the restoration of the Canal for normal traffic, and of the United Nations whose exertions made it possible that the clearance of the Canal be accomplished peacefully and in a short time.

On 18 March 1957, the Government of Egypt set forth in a memorandum basic principles relating to the Suez Canal and the arrangements for its operation. The memorandum contemplated a further detailed statement on the subject. In pursuance of the above, I have the honour to enclose a copy of the Declaration made today by the Government of Egypt in fulfilment of their participation in the Constantinople Convention of 1888, noting their understanding of the Security Council resolution of 13 October 1956 [S/3675] and in line with their statements relating to it before the Council.

I have the honour to invite Your Excellency's attention to the last paragraph of the Declaration which provides that it will be deposited and registered with the Secretariat of the United Nations. The Declaration, with the obligations therein, constitutes an international instrument and the Government of Egypt request that you kindly receive and register it accordingly.

(Signed) Mahmoud FAWZI
Minister for Foreign Affairs
of Egypt

DECLARATION

In elaboration of the principles set forth in their memorandum dated 18 March 1957, the Government of the Republic of Egypt, in accord with the Constantinople Convention of 1888 and the Charter of the United Nations, make hereby the following Declaration on the Suez Canal and the arrangements for its operation.

1. Reaffirmation of the Convention

It remains the unaltered policy and firm purpose of the Government of Egypt to respect the terms and the spirit of the Constantinople Convention of 1888 and the rights and obligations arising therefrom. The Government of Egypt will continue to respect, observe and implement them.

2. Observance of the Convention and of the Charter of of the United Nations

While reaffirming their determination to respect the terms and the spirit of the Constantinople Convention of 1888 and to abide by the Charter and the principles and purposes of the United Nations, the Government of Egypt are confident that the other signatories of the said Convention and all others concerned will be guided by the same resolve.

3. Freedom of navigation, tolls, and development of the Canal

The Government of Egypt are more particularly determined:

(a) To afford and maintain free and uninterrupted navigation for all nations within the limits of and in

rendre le canal à la circulation normale; il tient à remercier l'Organisation des Nations Unies, dont les efforts ont permis de dégager le canal rapidement et de façon pacifique.

Le 18 mars 1957, le Gouvernement égyptien a exposé, dans un mémoire, certains principes fondamentaux relatifs au canal de Suez et aux arrangements concernant sa gestion. Ce mémoire annonçait un exposé plus détaillé à ce sujet. J'ai l'honneur de joindre à la présente lettre, copie de la Déclaration faite ce jour par le Gouvernement égyptien en exécution des obligations qu'il a assumées aux termes de la Convention de Constantinople de 1888; cette déclaration du Gouvernement égyptien précise le sens qu'il donne à la résolution adoptée par le Conseil de sécurité le 13 octobre 1956 et conforme aux déclarations qu'il a faites à ce propos devant le Conseil.

J'ai l'honneur d'appeler l'attention de Votre Excellence sur le dernier paragraphe de la Déclaration, qui prévoit que celle-ci sera déposée et enregistrée au Secrétariat de l'Organisation des Nations Unies. La Déclaration, avec les obligations qu'elle énonce, constitue un instrument international, et le Gouvernement égyptien vous prie de bien vouloir l'accepter et l'enregistrer en conséquence.

Le Ministre des affaires étrangères de l'Egypte:
(Signé) Mahmoud FAWZI

DECLARATION

Le Gouvernement de la République d'Egypte, conformément à la Convention de Constantinople de 1888 et à la Charte des Nations Unies, tient à faire, au sujet du canal de Suez et des arrangements concernant sa gestion, la Déclaration suivante qui vient préciser les principes exposés dans le mémoire égyptien du 18 mars 1957.

1. Confirmation de la Convention

Le Gouvernement égyptien demeure fermement résolu à respecter les termes et l'esprit de la Convention de Constantinople de 1888, ainsi que les droits et obligations qui en découlent. Le Gouvernement égyptien continuera de respecter, d'observer, et d'appliquer les clauses de cette convention.

2. Respect de la Convention et de la Charte des Nations Unies

Le Gouvernement égyptien, en réaffirmant sa volonté de respecter les termes et l'esprit de la Convention de Constantinople de 1888 et de se conformer aux dispositions de la Charte ainsi qu'aux buts et principes des Nations Unies, compte que les autres signataires de ladite Convention et toutes les autres parties intéressées seront animés de la même résolution.

3. Liberté de passage, droits de navigation et modernisation du canal

Le Gouvernement égyptien est avant tout résolu:

a) A assurer de façon ininterrompue le libre passage pour les navires de toutes les nations, dans les

accordance with the provisions of the Constantinople Convention of 1888;

(b) That tolls shall continue to be levied in accordance with the last agreement, concluded on 28 April 1936, between the Government of Egypt and the Suez Canal Maritime Company, and that any increase in the current rate of tolls within any twelve months, if it takes place, shall be limited to 1 per cent, any increase beyond that level to be the result of negotiations, and, failing agreement, be settled by arbitration according to the procedure set forth in paragraph 7 (b);

(c) That the Canal is maintained and developed in accordance with the progressive requirements of modern navigation and that such maintenance and development shall include the 8th and 9th programmes of the Suez Canal Maritime Company with such improvements to them as are considered necessary.

4. Operation and management

The Canal will be operated and managed by the autonomous Suez Canal Authority established by the Government of Egypt on 26 July 1956. The Government of Egypt are looking forward with confidence to continued co-operation with the nations of the world in advancing the usefulness of the Canal. To that end the Government of Egypt would welcome and encourage co-operation between the Suez Canal Authority and representatives of shipping and trade.

5. Financial arrangements

(a) Tolls shall be payable in advance to the account of the Suez Canal Authority at any bank as may be authorized by it. In pursuance of this, the Suez Canal Authority has authorized the National Bank of Egypt and is negotiating with the Bank of International Settlement to accept on its behalf payment of the Canal tolls.

(b) The Suez Canal Authority shall pay to the Government of Egypt 5 per cent of all the gross receipts as royalty.

(c) The Suez Canal Authority will establish a Suez Canal Capital and Development Fund into which shall be paid 25 per cent of all gross receipts. This Fund will assure that there shall be available to the Suez Canal Authority adequate resources to meet the needs of development and capital expenditure for the fulfilment of the responsibilities they have assumed and are fully determined to discharge.

6. Canal Code

The regulations governing the Canal, including the details of its operation, are embodied in the Canal Code which is the law of the Canal. Due notice will be given of any alteration in the Code, and any such alteration, if it affects the principles and commitments in this Declaration and is challenged or com-

limites prévues par la Convention de Constantinople de 1888 et conformément aux dispositions de cet instrument.

b) A veiller à ce que les droits de navigation continuent d'être perçus conformément au dernier accord, conclu le 28 avril 1936, entre le Gouvernement égyptien et la Compagnie universelle du canal maritime de Suez. Toute augmentation éventuelle du taux actuel des droits de navigation au cours d'une quelconque période de douze mois ne dépassera pas un pour cent, toute augmentation supérieure à un pour cent devant faire l'objet de négociations; en cas d'échec de ces négociations, la question devra être réglée par voie d'arbitrage conformément à la procédure prévue à l'alinéa b du paragraphe 7.

c) A veiller à ce que le canal soit entretenu et modernisé conformément aux exigences de la navigation moderne, et à ce que les travaux d'entretien et de modernisation comprennent les 8ème et 9ème programmes de la Compagnie universelle du canal maritime de Suez, qui seraient améliorés le cas échéant.

4. Gestion et exploitation

Le canal sera géré et exploité par l'Autorité du canal de Suez, organe autonome créé par le Gouvernement égyptien le 26 juillet 1956. Le Gouvernement égyptien compte que les nations du monde continueront de prêter leur collaboration pour accroître l'utilité du canal. A cette fin, le Gouvernement égyptien accueillera favorablement et encouragera la coopération entre l'Autorité du canal de Suez et les représentants des entreprises de navigation et de commerce.

5. Dispositions financières

a) Le montant des droits devra être versé d'avance, au compte de l'Autorité du canal de Suez, à toute banque agréée par elle. L'Autorité du canal de Suez a agréé à cet effet la Banque nationale d'Egypte, et poursuit actuellement des négociations en ce sens avec la Banque des règlements internationaux.

b) L'Autorité du canal de Suez versera au Gouvernement égyptien, à titre de redevance, 5 pour 100 du montant total des bénéfices bruts.

c) L'Autorité du canal de Suez créera un fonds d'équipement et de modernisation du canal de Suez, qui sera crédité de 25 pour 100 du montant total des bénéfices bruts. Ce fonds donnera à l'Autorité du canal de Suez les ressources voulues pour faire aux dépenses de modernisation et d'équipement qu'il lui faudra effectuer pour s'acquitter de la tâche qu'elle a assumée et qu'elle est fermement résolue à accomplir.

6. Code du canal

Les règlements relatifs au canal, notamment ceux qui définissent les détails de sa gestion, figurent dans le Code du canal. Les intéressés seront dûment avertis de toute modification apportée à ce code, et, si une telle modification touche les principes et les engagements énoncés dans la présente Déclaration et fait,

plained against for that reason, shall be dealt with in accordance with the procedure set forth in paragraph 7 (b).

7. Discrimination and complaints relating to the Canal Code

(a) In pursuance of the principles laid down in the Constantinople Convention of 1888, the Suez Canal Authority, by the terms of its Charter, can in no case grant any vessel, company or other party any advantage or favour not accorded to other vessels, companies or parties on the same conditions.

(b) Complaints of discrimination or violation of the Canal Code shall be sought to be resolved by the complaining party by reference to the Suez Canal Authority. In the event that such a reference does not resolve the complaint, the matter may be referred, at the option of the complaining party or the Authority, to an arbitration tribunal composed of one nominee of the complaining party, one of the Authority and a third to be chosen by both. In case of disagreement, such third member will be chosen by the President of the International Court of Justice upon the application of either party.

(c) The decisions of the arbitration tribunal shall be made by a majority of its members. The decisions shall be binding upon the parties when they are rendered and they must be carried out in good faith.

(d) The Government of Egypt will study further appropriate arrangements that could be made for fact-finding, consultation and arbitration on complaints relating to the Canal Code.

8. Compensation and claims

The question of compensation and claims in connexion with the nationalization of the Suez Canal Maritime Company shall, unless agreed between the parties concerned, be referred to arbitration in accordance with the established international practice.

9. Disputes, disagreements or differences arising out of the Convention and this Declaration

(a) Disputes or disagreements arising in respect of the Constantinople Convention of 1888 or this Declaration shall be settled in accordance with the Charter of the United Nations.

(b) Differences arising between the parties to the said Convention in respect of the interpretation or the applicability of its provisions, if not otherwise resolved, will be referred to the International Court of Justice. The Government of Egypt would take the necessary steps in order to accept the compulsory jurisdiction of the International Court of Justice in conformity with the provisions of Article 36 of its Statute.

10. Status of this Declaration

The Government of Egypt make this Declaration, which re-affirms and is in full accord with the terms and spirit of the Constantinople Convention of 1888, as an expression of their desire and determination to

en conséquence, l'objet de protestations ou de plaintes, la question sera réglée conformément à la procédure définie à l'alinéa b du paragraphe 7.

7. Discrimination; plaintes relatives au Code du canal

a) Conformément aux principes énoncés dans la Convention de Constantinople de 1888, l'Autorité du canal de Suez ne peut en aucun cas, aux termes de sa charte, accorder à un navire, une compagnie ou toute autre partie intéressée un avantage ou une faveur qui ne serait pas accordée, dans les mêmes conditions, aux autres navires, compagnies ou parties intéressées.

b) Toute plainte pour mesures discriminatoires ou pour infraction au Code du canal devra être portée par la partie plaignante devant l'Autorité du canal de Suez. Si cette procédure n'aboutit pas à un règlement, la plainte pourra être renvoyée, au gré de la partie plaignante ou de l'Autorité, à un tribunal d'arbitrage composé d'un membre nommé par la partie plaignante, d'un membre nommé par l'Autorité et d'un tiers membre choisi de commun accord. En cas de désaccord, ce tiers membre sera choisi par le Président de la Cour internationale de Justice sur la demande de l'une ou l'autre partie.

c) Les décisions du tribunal d'arbitrage seront prises à la majorité de ses membres. Les décisions seront obligatoires pour les parties et devront être exécutées de bonne foi.

d) Le Gouvernement égyptien étudiera quelles autres dispositions pourraient être prises au sujet des enquêtes, des consultations et de l'arbitrage auxquels on pourrait recourir en cas de plaintes relatives au Code du canal.

8. Indemnités et réclamations

A moins qu'elle ne soit réglée par accord entre les parties, la question des indemnités et des réclamations relatives à la nationalisation de la Compagnie maritime du canal de Suez sera soumise à l'arbitrage, conformément à l'usage international établi.

9. Litiges, désaccords ou différends concernant la Convention et la présente Déclaration

a) Les litiges ou désaccords concernant la Convention de Constantinople de 1888 ou la présente Déclaration seront réglés conformément à la Charte des Nations Unies.

b) A défaut d'autre solution, les différends entre les parties à ladite Convention au sujet de l'interprétation ou de l'application de ses dispositions seront portés devant la Cour internationale de Justice. Le Gouvernement égyptien est disposé à prendre les mesures nécessaires pour accepter la juridiction obligatoire de la Cour internationale de Justice conformément à l'Article 36 de son Statut.

10. Statut juridique de la présente Déclaration

En faisant la présente Déclaration, qui confirme la Convention de Constantinople de 1888 et qui est entièrement conforme aux termes et à l'esprit de cet instrument, le Gouvernement égyptien tient à marquer

enable the Suez Canal to be an efficient and adequate waterway linking the nations of the world and serving the cause of peace and prosperity.

This Declaration, with the obligations therein, constitutes an international instrument and will be deposited and registered with the Secretariat of the United Nations.

son désir et sa volonté de faire en sorte que le canal de Suez soit une voie navigable utile qui relie les nations du monde et qui serve la cause de la paix et de la prospérité.

La présente Déclaration, avec les obligations qui y sont énoncées, constitue un instrument international qui sera déposé et enregistré au Secrétariat de l'Organisation des Nations Unies.

Agreement on the Sinai and Suez Canal
(Egypt-Israel)
September 4, 1957*

* 14 I.L.M. 1450.

EGYPT-ISRAEL: AGREEMENT ON THE SINAI AND SUEZ CANAL*
[Done at Geneva, September 4, 1975]

AGREEMENT BETWEEN EGYPT AND ISRAEL

The Government of the Arab Republic of Egypt and the Government of Israel have agreed that:

ARTICLE I

The conflict between them and in the Middle East shall not be resolved by military force but by peaceful means.

The Agreement concluded by the parties 18 January 1974, within the framework of the Geneva Peace Conference, constituted a first step towards a just and durable peace according to the provisions of Security Council resolution 338 of 22 October 1973.

They are determined to reach a final and just peace settlement by means of negotiations called for by Security Council resolution 338, this Agreement being a significant step towards that end.

ARTICLE II

The parties hereby undertake not to resort to the threat or use of force or military blockage against each other.

ARTICLE III

The parties shall continue scrupulously to observe the cease-fire on land, sea and air and to refrain from all military or para-military actions against each other. The parties also confirm that the obligations contained in the annex and, when concluded, the Protocol shall be an integral part of this Agreement.

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*[Reproduced from U.N. Security Council Document S/11818/Add.1 of September 2, 1975.

[The Agreement of September 4, 1975, contains an annex which sets forth the guiding principles for the preparation of the Protocol to implement the Agreement, a U.S. proposal for an early-warning, and the map referred to in Article IV. All of these are integral parts of the Agreement. The map, which appears at I.L.M. page 1457, was reproduced from U.N. Security Council Document S/11818/Add.3 of September 8, 1975.

[The Protocol to the Agreement, which entered into force October 10, 1975, appears at I.L.M. page 1458. Various memoranda and assurances negotiated at the time of the Agreement begin at page 1468. Interpretations of these memoranda and assurances by the U.S. Senate Legislative Counsel and the Department of State Legal Adviser appear respectively at pages 1585 and 1593.

[The United States Law implementing the proposal for an early warning system appears at page 1482, together with the report of the Senate Committee on Foreign Relations.

[The U.N. Security Council Resolution renewing the mandate of the United Nations Emergency Force appears at page 1522.]

ARTICLE IV

A. The military forces of the parties shall be deployed in accordance with the following principles:

(1) All Israeli forces shall be deployed east of the lines designated as lines J and M on the attached map.

(2) All Egyptian forces shall be deployed west of the line designated as line E on the attached map.

(3) The area between the lines designated on the attached map as lines E and F and the area between the lines designated on the attached map as lines J and K shall be limited in armament and forces.

(4) The limitations on armament and forces in the areas described by paragraph (3) above shall be agreed as described in the attached annex.

(5) The zone between the lines designated on the attached map as lines E and J will be a buffer zone. In this zone the United Nations Emergency Force will continue to perform its functions as under the Egyptian-Israeli Agreement of 18 January 1974.

(6) In the area south from line E and west from line M, as defined on the attached map, there will be no military forces, as specified in the attached annex.

B. The details concerning the new lines, the redeployment of the forces and its timing, the limitation on armaments and forces, aerial reconnaissance, the operation of the early warning and surveillance installations and the use of the roads, the United Nations functions and other arrangements will all be in accordance with the provisions of the annex and map which are an integral part of this Agreement and of the protocol which is to result from negotiations pursuant to the annex and which, when concluded, shall become an integral part of this Agreement.

ARTICLE V

The United Nations Emergency Force is essential and shall continue its functions and its mandate shall be extended annually.

ARTICLE VI

The parties hereby establish a joint commission for the duration of this Agreement. It will function under the aegis of the chief co-ordinator of the United Nations peace-keeping missions in the Middle East in order to consider any problem arising from this Agreement and to assist the United Nations Emergency Force in the execution of its mandate. The joint commission shall function in accordance with procedures established in the Protocol.

ARTICLE VII

Non-military cargoes destined for or coming from Israel shall be permitted through the Suez Canal.

ARTICLE VIII

This Agreement is regarded by the parties as a significant step toward a just and lasting peace. It is not a final peace agreement.

The parties shall continue their efforts to negotiate a final peace agreement within the framework of the Geneva peace conference in accordance with Security Council resolution 338.

ARTICLE IX

This Agreement shall enter into force upon signature of the Protocol and remain in force until superseded by a new agreement.

Done at _____ on the _____ 1975, in four original copies.

For the Government of the Arab Republic of Egypt

For the Government of Israel

WITNESS

ANNEX TO THE EGYPT-ISRAEL AGREEMENT

Within five days after the signature of the Egypt-Israel Agreement, representatives of the two parties shall meet in the military working group of the Middle East peace conference at Geneva to begin preparation of a detailed Protocol for the implementation of the Agreement. The working group will complete the Protocol within two weeks. In order to facilitate preparation of the Protocol and implementation of the agreement, and to assist in maintaining the scrupulous observance of the cease-fire and other elements of the Agreement, the two parties have agreed on the following principles, which are an integral part of the Agreement, as guidelines for the working group.

1. DEFINITIONS OF LINES AND AREAS

The deployment lines, areas of limited forces and armaments, buffer zones, the area south from line E and west from line M, other designated areas, road sections for common use and other features referred to in article IV of the Agreement shall be as indicated on the attached map (1:100,000 - United States edition).

2. BUFFER ZONES

(A) Access to the buffer zones will be controlled by the United Nations Emergency Force, according to procedures to be worked out by the working group and the United Nations Emergency Force.

(B) Aircraft of either party will be permitted to fly freely up to the forward line of that party. Reconnaissance aircraft of either party may fly up to the middle line of the buffer zone between E and J on an agreed schedule.

(C) In the buffer zone, between lines E and J, there will be established under article IV of the Agreement an early warning system entrusted to United States civilian personnel as detailed in a separate proposal, which is a part of this Agreement.

(D) Authorized personnel shall have access to the buffer zone for transit to and from the early warning system; the manner in which this is carried out shall be worked out by the working group and the United Nations Emergency Force.

3. AREA SOUTH OF LINE E AND WEST OF LINE M

(A) In this area, the United Nations Emergency Force will assure that there are no military or para-military forces of any kind, military fortifications and military installations; it will establish checkpoints and have the freedom of movement necessary to perform this function.

(B) Egyptian civilians and third country civilian oil field personnel shall have the right to enter, exit from, work and live in the above indicated area, except for buffer zones 2A, 2B and the United Nations posts. Egyptian civilian police shall be allowed in the area to perform normal civil police functions among the civilian population in such number and with such weapons and equipment as shall be provided for in the Protocol.

(C) Entry to and exit from the area, by land, by air or by sea, shall be only through United Nations Emergency Force checkpoints. The United Nations Emergency Force shall also establish checkpoints along the road, the dividing line and at other points, with the precise locations and number to be included in the Protocol.

(D) Access to the airspace and the coastal area shall be limited to unarmed Egyptian civilian vessels and unarmed civilian helicopters and transport planes involved in the civilian activities of the area as agreed by the working group.

(E) Israel undertakes to leave intact all currently existing civilian installations and infrastructures.

(F) Procedures for use of the common sections of the coastal road along the Gulf of Suez shall be determined by the working group and detailed in the Protocol.

4. AERIAL SURVEILLANCE

There shall be a continuation of aerial reconnaissance missions by the United States over the areas covered by the Agreement (the area between lines F and K), following the same procedures already in practice. The missions will ordinarily be carried out at a frequency of one mission every 7-10 days, with either party or

the United Nations Emergency Force empowered to request an earlier mission. The United States Government will make the mission results available expeditiously to Israel, Egypt and the chief co-ordinator of the United Nations peace-keeping missions in the Middle East.

5. LIMITATION OF FORCES AND ARMAMENTS

(A) Within the areas of limited forces and armaments (the areas between lines J and K and lines E and F) the major limitations shall be as follows:

(1) Eight (8) standard infantry battalions.

(2) Seventy-five (75) tanks.

(3) Seventy-two (72) artillery pieces, including heavy mortars (i.e. with caliber larger than 120 mm), whose range shall not exceed twelve (12) km.

(4) The total number of personnel shall not exceed eight thousand (8,000).

(5) Both parties agree not to station or locate in the area weapons which can reach the line of the other side.

(6) Both parties agree that in the areas between line A (of the disengagement agreement of 18 January 1974) and line E they will construct no new fortifications or installations for forces of a size greater than that agreed herein.

(B) The major limitations beyond the areas of limited forces and armament will be:

(1) Neither side will station nor locate any weapon in areas from which they can reach the other line.

(2) The parties will not place anti-aircraft missiles within an area of ten (10) kilometres east of line K and west of line F, respectively.

(C) The United Nations Emergency Force will conduct inspections in order to ensure the maintenance of the agreed limitations within these areas.

6. PROCESS OF IMPLEMENTATION

The detailed implementation and timing of the redeployment of forces, turnover of oil fields, and other arrangements called for by the Agreement, annex and Protocol shall be determined by the working group, which will agree on the stages of this process, including the phased movement of Egyptian troops to line E and Israeli troops to line J. The first phase will be the transfer of the oil fields and installations to Egypt. This process will begin within two weeks from the signature of the Protocol with the introduction of the necessary technicians, and it will be completed no later than eight weeks after it begins. The details of the phasing will be worked out in the military working group.

Implementation of the redeployment shall be completed within five months after signature of the Protocol.

For the Government of the Arab Republic of Egypt

For the Government of Israel

WITNESS

Proposal [*]

In connexion with the early warning system referred to in article IV of the Agreement between Egypt and Israel concluded on this date and as an integral part of that Agreement (hereafter referred to as the basic Agreement), the United States proposes the following:

1. The early warning system to be established in accordance with article IV in the area shown on the map attached to the basic Agreement will be entrusted to the United States. It shall have the following elements:

A. There shall be two surveillance stations to provide strategic early warning, one operated by Egyptian and one operated by Israeli personnel. Their locations are shown on the map attached to the basic Agreement. Each station shall be manned by not more than 250 technical and administrative personnel. They shall perform the functions of visual and electronic surveillance only within their stations.

B. In support of these stations, to provide tactical early warning and to verify access to them, three watch stations shall be established by the United States in the Mitla and Giddi Passes as will be shown on the map attached to the basic Agreement. These stations shall be operated by United States civilian personnel. In support of these stations, there shall be established three unmanned electronic sensor fields at both ends of each Pass and in the general vicinity of each station and the roads leading to and from those stations.

2. The United States civilian personnel shall perform the following duties in connexion with the operation and maintenance of these stations.

A. At the two surveillance stations described in paragraph 1 A. above, United States civilian personnel will verify the nature of the operations of the stations and all movement into and out of each station and will immediately report any detected divergency from its authorized role of visual and electronic surveillance to the parties to the basic Agreement and to the United Nations Emergency Force.

B. At each watch station described in paragraph 1 B. above, the United States civilian personnel will immediately report to the parties to the basic Agreement

*[The United States Law implementing the proposal for an early warning system appears at page 1482, together with the report of the Senate Committee on Foreign Relations.]

and to the United Nations Emergency Force any movement of armed forces, other than the United Nations Emergency Force, into either Pass and any observed preparations for such movement.

C. The total number of United States civilian personnel assigned to functions under this proposal shall not exceed 200. Only civilian personnel shall be assigned to functions under this proposal.

3. No arms shall be maintained at the stations and other facilities covered by this proposal, except for small arms required for their protection.

4. The United States personnel serving the early warning system shall be allowed to move freely within the area of the system.

5. The United States and its personnel shall be entitled to have such support facilities as are reasonably necessary to perform their functions.

6. The United States personnel shall be immune from local criminal, civil, tax and customs jurisdiction and may be accorded any other specific privileges and immunities provided for in the United Nations Emergency Force Agreement of 13 February 1957.

7. The United States affirms that it will continue to perform the functions described above for the duration of the basic Agreement.

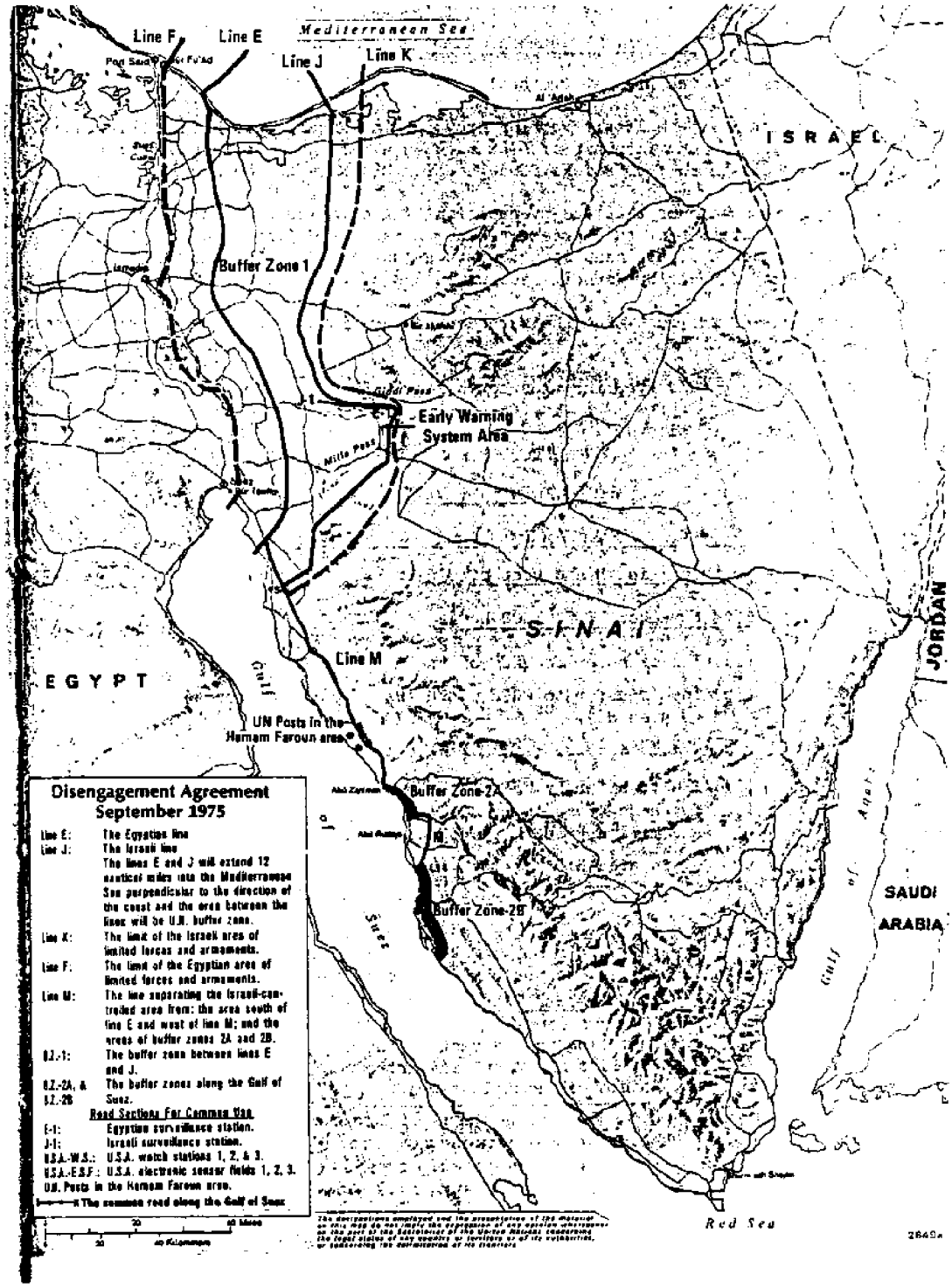
8. Notwithstanding any other provision of this proposal, the United States may withdraw its personnel only if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary. In the latter case the parties to the basic Agreement will be informed in advance in order to give them the opportunity to make alternative arrangements. If both parties to the basic Agreement request the United States to conclude its role under this proposal, the United States will consider such requests conclusive.

9. Technical problems including the location of the watch stations will be worked out through consultation with the United States.

Henry A. KISSINGER
Secretary of State

Accepted by:

_____


Line F
Line E
Line J
Line K
Mediterranean Sea
Port Said
Port Fu'ad
Al Arish
ISRAEL
Buffer Zone 1
Early Warning System Area
Mitla Pass
Gidi Pass
Suez
SINAI
JORDAN
EGYPT
Gulf of Suez
Line M
UN Posts in the Hamam Faroun area
Buffer Zone 2A
Buffer Zone 2B
Gulf of Aqaba
SAUDI ARABIA
Red Sea
Disengagement Agreement
September 1975
Line E: The Egyptian line
Line J: The Israeli line
The lines E and J will extend 12 nautical miles into the Mediterranean Sea perpendicular to the direction of the coast and the area between the lines will be U.N. buffer zone.
Line K: The limit of the Israeli area of limited forces and armaments.
Line F: The limit of the Egyptian area of limited forces and armaments.
Line M: The line separating the Israeli-controlled area from: the area south of line E and west of line M; and the areas of buffer zones 2A and 2B.
B.Z.-1: The buffer zone between lines E and J.
B.Z.-2A, & B.Z.-2B: The buffer zones along the Gulf of Suez.
Road Sections For Common Use
E-1: Egyptian surveillance station.
J-1: Israeli surveillance station.
U.S.A.-W.S.: U.S.A. watch stations 1, 2, & 3.
U.S.A.-E.S.F.: U.S.A. electronic sensor fields 1, 2, 3.
U.N. Posts in the Hamam Faroun area.
The common road along the Gulf of Suez
20 30 40 Miles
30 40 Kilometers
The designations employed and the presentation of the material on this map do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers.
2640a

7. Panama Canal

The Panama Canal Treaty, September 7, 1977*

* T.I.A.S. 10,030.

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 10030

PANAMA CANAL TREATY

Between the
UNITED STATES OF AMERICA
and PANAMA

Signed at Washington September 7, 1977

with

Agreed Minute

and

Related Letter

PANAMA CANAL TREATY

The United States of America and the Republic of Panama,

Acting in the spirit of the Joint Declaration of April 3, 1964,[1] by the Representatives of the Governments of the United States of America and the Republic of Panama, and of the Joint Statement of Principles of February 7, 1974,[2] initialed by the Secretary of State of the United States of America and the Foreign Minister of the Republic of Panama, and

Acknowledging the Republic of Panama's sovereignty over its territory,

Have decided to terminate the prior Treaties pertaining to the Panama Canal and to conclude a new Treaty to serve as the basis for a new relationship between them and, accordingly, have agreed upon the following:

[1] *Department of State Bulletin*, Apr. 27, 1964, p. 656.
[2] *Department of State Bulletin*, Feb. 27, 1974, p. 184.

ARTICLE I

Abrogation of Prior Treaties and Establishment of a New Relationship

1. Upon its entry into force, this Treaty terminates and supersedes:

(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903;[1]

(b) The Treaty of Friendship and Cooperation signed at Washington, March 2, 1936,[2] and the Treaty of Mutual Understanding and Cooperation and the related Memorandum of Understandings Reached, signed at Panama, January 25, 1955,[3] between the United States of America and the Republic of Panama;

(c) All other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama, concerning the Panama Canal which were in force prior to the entry into force of this Treaty;[4] and

(d) Provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

2. In accordance with the terms of this Treaty and related agreements, the Republic of Panama, as territorial sovereign, grants to the United States of America, for the duration of this Treaty, the rights

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[1] TS 431; 33 Stat. 2234; 10 Bevans 663.
[2] TS 945; 55 Stat. 1807; 10 Bevans 742.
[3] TIAS 3297; 6 UST 3297.
[4] See agreed minute, para. 1.

necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal. The Republic of Panama guarantees to the United States of America the peaceful use of the land and water areas which it has been granted the rights to use for such purposes pursuant to this Treaty and related agreements.

3. The Republic of Panama shall participate increasingly in the management and protection and defense of the Canal, as provided in this Treaty.

4. In view of the special relationship established by this Treaty, the United States of America and the Republic of Panama shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

ARTICLE II

Ratification, Entry into Force, and Termination

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal,[1] signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months

[1] TIAS 10029; 33 UST.

from the date of the exchange of the instruments of ratification.[1]

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

ARTICLE III

Canal Operation and Management

1. The Republic of Panama, as territorial sovereign, grants to the United States of America the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States of America accepts the grant of such rights and undertakes to exercise them in accordance with this Treaty and related agreements.

2. In carrying out the foregoing responsibilities, the United States of America may:

(a) Use for the aforementioned purposes, without cost except as provided in this Treaty, the various installations and areas (including the Panama Canal) and waters, described in the Agreement in Implementation of this Article,[2] signed this date, as well as such other areas and installations as are made available to the United States of America under this Treaty and related agreements, and take the measures necessary to ensure sanitation of such areas;

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[1] Oct. 1, 1979.
[2] TIAS 10031; 33 UST.

(b) Make such improvements and alterations to the aforesaid installations and areas as it deems appropriate, consistent with the terms of this Treaty;

(c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters, in accordance with this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules;

(d) Establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment;

(e) Regulate relations with employees of the United States Government;

(f) Provide supporting services to facilitate the performance of its responsibilities under this Article;

(g) Issue and enforce regulations for the effective exercise of the rights and responsibilities of the United States of America under this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules; and

(h) Exercise any other right granted under this Treaty, or otherwise agreed upon between the two Parties.

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United

States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such a request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both Parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

(c) The United States of America shall employ a national of the United States of America as Administrator of the Panama Canal Commission, and a Panamanian national as Deputy Administrator, through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the Administrator and a national of the

United States of America shall occupy the position of Deputy Administrator. Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions by the United States of America.

(d) Should the United States of America remove the Panamanian national from his position as Deputy Administrator, or Administrator, the Republic of Panama shall propose another Panamanian national for appointment to such position by the United States of America.

4. An illustrative description of the activities the Panama Canal Commission will perform in carrying out the responsibilities and rights of the United States of America under this Article is set forth at the Annex. Also set forth in the Annex are procedures for the discontinuance or transfer of those activities performed prior to the entry into force of this Treaty by the Panama Canal Company or the Canal Zone Government which are not to be carried out by the Panama Canal Commission.

5. The Panama Canal Commission shall reimburse the Republic of Panama for the costs incurred by the Republic of Panama in providing the following public services in the Canal operating areas and in housing areas set forth in the Agreement in Implementation of Article III of this Treaty and occupied by both United States and Panamanian citizen employees of the Panama Canal Commission: police, fire protection, street

83-421 O - 81 - 2

maintenance, street lighting, street cleaning, traffic management and garbage collection. The Panama Canal Commission shall pay the Republic of Panama the sum of ten million United States dollars ($10,000,000) per annum for the foregoing services. It is agreed that every three years from the date that this Treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services.

6. The Republic of Panama shall be responsible for providing, in all areas comprising the former Canal Zone, services of a general jurisdictional nature such as customs and immigration, postal services, courts and licensing, in accordance with this Treaty and related agreements.

7. The United States of America and the Republic of Panama shall establish a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of the United States of America and the Republic of Panama, and which may appoint such subcommittees as it may deem appropriate. This Committee shall advise the United States of America and the Republic of Panama on matters of policy affecting the Canal's operation. In view of both Parties' special interest in the continuity and efficiency of the Canal operation in the future, the Committee shall advise on matters such as general tolls policy, employment and training policies to increase the participation

of Panamanian nationals in the operation of the Canal, and international policies on matters concerning the Canal. The Committee's recommendations shall be transmitted to the two Governments, which shall give such recommendations full consideration in the formulation of such policy decisions.

8. In addition to the participation of Panamanian nationals at high management levels of the Panama Canal Commission, as provided for in paragraph 3 of this Article, there shall be growing participation of Panamanian nationals at all other levels and areas of employment in the aforesaid Commission, with the objective of preparing, in an orderly and efficient fashion, for the assumption by the Republic of Panama of full responsibility for the management, operation and maintenance of the Canal upon the termination of this Treaty.

9. The use of the areas, waters and installations with respect to which the United States of America is granted rights pursuant to this Article, and the rights and legal status of United States Government agencies and employees operating in the Republic of Panama pursuant to this Article, shall be governed by the Agreement in Implementation of this Article, signed this date.

10. Upon entry into force of this Treaty, the United States Government agencies known as the Panama Canal Company and the Canal Zone Government shall cease to operate within the territory of the Republic of Panama that formerly constituted the Canal Zone.

ARTICLE IV

Protection and Defense

1. The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it.

2. For the duration of this Treaty, the United States of America shall have primary responsibility to protect and defend the Canal. The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date.[1] The use of areas and installations and the legal status of the armed forces of the United States of America in the Republic of Panama shall be governed by the aforesaid Agreement.

3. In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States of America and the Republic of Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each Party. These representatives shall be charged by their respective governments with consulting and cooperating on all matters pertaining to the protection and defense of the Canal,

[1] TIAS 10032; 33 UST.

and with planning for actions to be taken in concert for that purpose. Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama. The Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties;

(b) The planning and conduct of combined military exercises; and

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

4. The Combined Board shall, at five-year intervals throughout the duration of this Treaty, review the resources being made available by the two Parties for the protection and defense of the Canal. Also, the Combined Board shall make appropriate recommendations to the two Governments respecting projected requirements, the efficient utilization of available resources of the two Parties, and other matters of mutual interest with respect to the protection and defense of the Canal.

5. To the extent possible consistent with its primary responsibility for the protection and defense of the Panama Canal, the United States of America will endeavor to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of

that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty.

ARTICLE V

Principle of Non-Intervention

Employees of the Panama Canal Commission, their dependents and designated contractors of the Panama Canal Commission, who are nationals of the United States of America, shall respect the laws of the Republic of Panama and shall abstain from any activity incompatible with the spirit of this Treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama. The United States of America shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

ARTICLE VI

Protection of the Environment

1. The United States of America and the Republic of Panama commit themselves to implement this Treaty in a manner consistent with the protection of the natural environment of the Republic of Panama. To this end, they shall consult and cooperate with each other in all appropriate ways to ensure that they shall

give due regard to the protection and conservation of the environment.

2. A Joint Commission on the Environment shall be established with equal representation from the United States of America and the Republic of Panama, which shall periodically review the implementation of this Treaty and shall recommend as appropriate to the two Governments ways to avoid or, should this not be possible, to mitigate the adverse environmental impacts which might result from their respective actions pursuant to the Treaty.

3. The United States of America and the Republic of Panama shall furnish the Joint Commission on the Environment complete information on any action taken in accordance with this Treaty which, in the judgment of both, might have a significant effect on the environment. Such information shall be made available to the Commission as far in advance of the contemplated action as possible to facilitate the study by the Commission of any potential environmental problems and to allow for consideration of the recommendation of the Commission before the contemplated action is carried out.

ARTICLE VII

Flags

1. The entire territory of the Republic of Panama, including the areas the use of which the Republic of

Panama makes available to the United States of America pursuant to this Treaty and related agreements, shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor.

2. The flag of the United States of America may be displayed, together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, at the site of the Combined Board, and as provided in the Agreement in Implementation of Article IV of this Treaty.

3. The flag of the United States of America also may be displayed at other places and on some occasions, as agreed by both Parties.

ARTICLE VIII

Privileges and Immunities

1. The installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements, and their official archives and documents, shall be inviolable. The two Parties shall agree on procedures to be followed in the conduct of any criminal investigation at such locations by the Republic of Panama.

2. Agencies and instrumentalities of the Government of the United States of America operating in the

Republic of Panama pursuant to this Treaty and related agreements shall be immune from the jurisdiction of the Republic of Panama.

3. In addition to such other privileges and immunities as are afforded to employees of the United States Government and their dependents pursuant to this Treaty, the United States of America may designate up to twenty officials of the Panama Canal Commission who, along with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. The United States of America shall furnish to the Republic of Panama a list of the names of said officials and their dependents, identifying the positions they occupy in the Government of the United States of America, and shall keep such list current at all times.

ARTICLE IX

Applicable Laws and Law Enforcement

1. In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty. The law of the Republic of Panama shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements.

2. Natural or juridical persons who, on the date of entry into force of this Treaty, are engaged in business or non-profit activities at locations in the former Canal Zone may continue such business or activities at those locations under the same terms and conditions prevailing prior to the entry into force of this Treaty for a thirty-month transition period from its entry into force. The Republic of Panama shall maintain the same operating conditions as those applicable to the aforementioned enterprises prior to the entry into force of this Treaty in order that they may receive licenses to do business in the Republic of Panama subject to their compliance with the requirements of its law. Thereafter, such persons shall receive the same treatment under the law of the Republic of Panama as similar enterprises already established in the rest of the territory of the Republic of Panama without discrimination.

3. The rights of ownership, as recognized by the United States of America, enjoyed by natural or juridical private persons in buildings and other improvements to real property located in the former Canal Zone shall be recognized by the Republic of Panama in conformity with its laws.

4. With respect to buildings and other improvements to real property located in the Canal operating areas, housing areas or other areas subject to the licensing procedure established in Article IV of the Agreement in Implementation of Article III of this Treaty, the owners shall be authorized to continue using the land

upon which their property is located in accordance with the procedures established in that Article.

5. With respect to buildings and other improvements to real property located in areas of the former Canal Zone to which the aforesaid licensing procedure is not applicable, or may cease to be applicable during the lifetime or upon termination of this Treaty, the owners may continue to use the land upon which their property is located, subject to the payment of a reasonable charge to the Republic of Panama. Should the Republic of Panama decide to sell such land, the owners of the buildings or other improvements located thereon shall be offered a first option to purchase such land at a reasonable cost. In the case of non-profit enterprises, such as churches and fraternal organizations, the cost of purchase will be nominal in accordance with the prevailing practice in the rest of the territory of the Republic of Panama.

6. If any of the aforementioned persons are required by the Republic of Panama to discontinue their activities or vacate their property for public purposes, they shall be compensated at fair market value by the Republic of Panama.

7. The provisions of paragraphs 2-6 above shall apply to natural or juridical persons who have been engaged in business or non-profit activities at locations in the former Canal Zone for at least six months prior to the date of signature of this Treaty.

8. The Republic of Panama shall not issue, adopt or enforce any law, decree, regulation, or international

agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right granted under this Treaty or related agreements.

9. Vessels transiting the Canal, and cargo, passengers and crews carried on such vessels shall be exempt from any taxes, fees, or other charges by the Republic of Panama. However, in the event such vessels call at a Panamanian port, they may be assessed charges incident thereto, such as charges for services provided to the vessel. The Republic of Panama may also require the passengers and crew disembarking from such vessels to pay such taxes, fees and charges as are established under Panamanian law for persons entering its territory. Such taxes, fees and charges shall be assessed on a nondiscriminatory basis.

10. The United States of America and the Republic of Panama will cooperate in taking such steps as may from time to time be necessary to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents, and their property, the Forces of the United States of America and the members thereof, the civilian component of the United States Forces, the dependents of members of the Forces and the civilian component, and their property, and the contractors of the Panama Canal Commission and of the United States Forces, their dependents, and their property. The Republic of Panama will seek from its

Legislative Branch such legislation as may be needed to carry out the foregoing purposes and to punish any offenders.

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein, may elect to serve their sentences in their State of nationality.[1]

ARTICLE X

Employment with the Panama Canal Commission

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

(b) The terms and conditions of employment to be established will in general be no less favorable to

[1] TIAS 9787; 31 UST.

persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect immediately prior to that date.

3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United

States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

4. The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

5. The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty. It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons, such as in the case of employees holding positions requiring certain non-transferable or non-recruitable skills.

6. With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to entry into force of this

Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purpose of this paragraph.

7. Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States in accordance with United States Civil Service regulations. For such persons who are not United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama. Likewise, persons previously employed in activities for which the Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty. Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force

of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediate annuity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States of America is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

8. The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

9. (a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

(b) Employee unions shall have the right to affiliate with international labor organizations.

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

ARTICLE XI

Provisions for the Transition Period

The Republic of Panama shall reassume plenary jurisdiction over the former Canal Zone upon entry into force of this Treaty and in accordance with its terms.

1. In order to provide for an orderly transition to the full application of the jurisdictional arrangements established by this Treaty and related agreements, the provisions of this Article shall become applicable upon the date this Treaty enters into force, and shall

remain in effect for thirty calendar months. The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this Treaty and in related agreements.

2. During this transition period, the criminal and civil laws of the United States of America shall apply concurrently with those of the Republic of Panama in certain of the areas and installations made available for the use of the United States of America pursuant to this Treaty, in accordance with the following provisions:

(a) The Republic of Panama permits the authorities of the United States of America to have the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

(i) for any offense committed during the transition period within such areas and installations, and

(ii) for any offense committed prior to that period in the former Canal Zone.

The Republic of Panama shall have the primary right to exercise jurisdiction over all other offenses committed by such persons, except as otherwise

provided in this Treaty and related agreements or as may be otherwise agreed.

(b) Either Party may waive its primary right to exercise jurisdiction in a specific case or category of cases.

3. The United States of America shall retain the right to exercise jurisdiction in criminal cases relating to offenses committed prior to the entry into force of this Treaty in violation of the laws applicable in the former Canal Zone.

4. For the transition period, the United States of America shall retain police authority and maintain a police force in the aforementioned areas and installations. In such areas, the police authorities of the United States of America may take into custody any person not subject to their primary jurisdiction if such person is believed to have committed or to be committing an offense against applicable laws or regulations, and shall promptly transfer custody to the police authorities of the Republic of Panama. The United States of America and the Republic of Panama shall establish joint police patrols in agreed areas. Any arrests conducted by a joint patrol shall be the responsibility of the patrol member or members representing the Party having primary jurisdiction over the person or persons arrested.

5. The courts of the United States of America and related personnel, functioning in the former Canal Zone immediately prior to the entry into force of this

Treaty, may continue to function during the transition period for the judicial enforcement of the jurisdiction to be exercised by the United States of America in accordance with this Article.

6. In civil cases, the civilian courts of the United States of America in the Republic of Panama shall have no jurisdiction over new cases of a private civil nature, but shall retain full jurisdiction during the transition period to dispose of any civil cases, including admiralty cases, already instituted and pending before the courts prior to the entry into force of this Treaty.

7. The laws, regulations, and administrative authority of the United States of America applicable in the former Canal Zone immediately prior to the entry into force of this Treaty shall, to the extent not inconsistent with this Treaty and related agreements, continue in force for the purpose of the exercise by the United States of America of law enforcement and judicial jurisdiction only during the transition period. The United States of America may amend, repeal or otherwise change such laws, regulations and administrative authority. The two Parties shall consult concerning procedural and substantive matters relative to the implementation of this Article, including the disposition of cases pending at the end of the transition period and, in this respect, may enter into appropriate agreements by an exchange of notes or other instrument.

8. During this transition period, the United States of America may continue to incarcerate individuals in the areas and installations made available for the use of the United States of America by the Republic of Panama pursuant to this Treaty and related agreements, or to transfer them to penal facilities in the United States of America to serve their sentences.

ARTICLE XII

A Sea-Level Canal or a Third Lane of Locks

1. The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with

third States for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

3. The Republic of Panama grants to the United States of America the right to add a third lane of locks to the existing Panama Canal. This right may be exercised at any time during the duration of this Treaty, provided that the United States of America has delivered to the Republic of Panama copies of the plans for such construction.

4. In the event the United States of America exercises the right granted in paragraph 3 above, it may use for that purpose, in addition to the areas otherwise made available to the United States of America pursuant to this Treaty, such other areas as the two Parties may agree upon. The terms and conditions applicable to Canal operating areas made available by the Republic of Panama for the use of the United States of America pursuant to Article III of this Treaty shall apply in a similar manner to such additional areas.

5. In the construction of the aforesaid works, the United States of America shall not use nuclear excavation techniques without the previous consent of the Republic of Panama.

ARTICLE XIII

Property Transfer and Economic Participation by the Republic of Panama

1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for

the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

2. The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon, as set forth below:

(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas;

(b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of

this Treaty at such time as such units are made available to the Republic of Panama.

(d) Upon termination of this Treaty, all real property, and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements, and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal, after the entry into force of this Treaty, for which tolls are charged. The rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, will be adjusted to reflect changes in the United States wholesale price index[1] for total manufactured goods during biennial periods. The first adjustment

[1] See related letter, p. 102.

shall take place five years after entry into force of this Treaty, taking into account the changes that occurred in such price index during the preceding two years. Thereafter successive adjustments shall take place at the end of each biennial period. If the United States of America should decide that another indexing method is preferable, such method shall be proposed to the Republic of Panama and applied if mutually agreed.

(b) A fixed annuity of ten million United States dollars ($10,000,000) to be paid out of Canal operating revenues. This amount shall constitute a fixed expense of the Panama Canal Commission.

(c) An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

ARTICLE XIV

Settlement of Disputes

In the event that any question should arise between the Parties concerning the interpretation of this Treaty or related agreements, they shall make

every effort to resolve the matter through consultation in the appropriate committees established pursuant to this Treaty and related agreements, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FIRMADO en Washington, el día siete de septiembre de 1977, en los idiomas inglés y español, siendo ambos textos igualmente auténticos.

FOR THE UNITED STATES OF AMERICA:
POR LOS ESTADOS UNIDOS DE AMERICA:

President of the
United States of America

Presidente de los
Estados Unidos de América

FOR THE REPUBLIC OF PANAMA:
POR LA REPUBLICA DE PANAMA:

Head of Government of the
Republic of Panama [1]

Jefe de Gobierno de la
República de Panamá

[1] Omar Torrijos Herrera.

ANNEX

Procedures for the Cessation or Transfer of Activities Carried out by the Panama Canal Company and the Canal Zone Government and Illustrative List of the Functions that may be Performed by the Panama Canal Commission

1. The laws of the Republic of Panama shall regulate the exercise of private economic activities within the areas made available by the Republic of Panama for the use of the United States of America pursuant to this Treaty. Natural or juridical persons who, at least six months prior to the date of signature of this Treaty, were legally established and engaged in the exercise of economic activities in the former Canal Zone, may continue such activities in accordance with the provisions of paragraphs 2-7 of Article IX of this Treaty.

2. The Panama Canal Commission shall not perform governmental or commercial functions as stipulated in paragraph 4 of this Annex, provided, however, that this shall not be deemed to limit in any way the right of the United States of America to perform those functions that may be necessary for the efficient management, operation and maintenance of the Canal.

3. It is understood that the Panama Canal Commission, in the exercise of the rights of the United States of America with respect to the management, operation and maintenance of the Canal, may perform functions such as are set forth below by way of illustration:

a. Management of the Canal enterprise.

b. Aids to navigation in Canal waters and in proximity thereto.

c. Control of vessel movement.

d. Operation and maintenance of the locks.

e. Tug service for the transit of vessels and dredging for the piers and docks of the Panama Canal Commission.

f. Control of the water levels in Gatun, Alajuela (Madden) and Miraflores Lakes.

g. Non-commercial transportation services in Canal waters.

h. Meteorological and hydrographic services.

i. Admeasurement.

j. Non-commercial motor transport and maintenance.

k. Industrial security through the use of watchmen.

l. Procurement and warehousing.

m. Telecommunications.

n. Protection of the environment by preventing and controlling the spillage of oil and substances harmful to human or animal life and of the ecological equilibrium in areas used in operation of the Canal and the anchorages.

o. Non-commercial vessel repair.

p. Air conditioning services in Canal installations.

q. Industrial sanitation and health services.

r. Engineering design, construction and maintenance of Panama Canal Commission installations.

s. Dredging of the Canal channel, terminal ports and adjacent waters.

t. Control of the banks and stabilizing of the slopes of the Canal.

u. Non-commercial handling of cargo on the piers and docks of the Panama Canal Commission.

v. Maintenance of public areas of the Panama Canal Commission, such as parks and gardens.

w. Generation of electric power.

x. Purification and supply of water.

y. Marine salvage in Canal waters.

z. Such other functions as may be necessary or appropriate to carry out, in conformity with this Treaty and related agreements, the rights and responsibilities of the United States of America with respect to the management, operation and maintenance of the Panama Canal.

4. The following activities and operations carried out by the Panama Canal Company and the Canal Zone Government shall not be carried out by the Panama Canal Commission, effective upon the dates indicated herein:

(a) Upon the date of entry into force of this Treaty:

(i) Wholesale and retail sales, including those through commissaries, food stores, department stores, optical shops and pastry shops;

(ii) The production of food and drink, including milk products and bakery products;

(iii) The operation of public restaurants and cafeterias and the sale of articles through vending machines;

(iv) The operation of movie theaters, bowling alleys, pool rooms and other recreational and amusement facilities for the use of which a charge is payable;

(v) The operation of laundry and dry cleaning plants other than those operated for official use;

(vi) The repair and service of privately owned automobiles or the sale of petroleum or lubricants, including the operation of gasoline stations, repair garages and tire repair and recapping facilities, and the repair and service of other privately owned property, including appliances, electronic devices, boats, motors, and furniture;

(vii) The operation of cold storage and freezer plants other than those operated for official use;

(viii) The operation of freight houses other than those operated for official use;

(ix) Commercial services to and supply of privately owned and operated vessels, including the construction of vessels, the sale of petroleum and lubricants and the provision of water, tug services not related to the Canal or other United States Government operations, and repair of such vessels, except in situations where repairs may be necessary to remove disabled vessels from the Canal;

(x) Printing services other than for official use;

(xi) Maritime transportation for the use of the general public;

(xii) Health and medical services provided to individuals, including hospitals, leprosariums, veterinary, mortuary and cemetery services;

(xiii) Educational services not for professional training, including schools and libraries;

(xiv) Postal services;

(xv) Immigration, customs and quarantine controls, except those measures necessary to ensure the sanitation of the Canal;

(xvi) Commercial pier and dock services, such as the handling of cargo and passengers; and

(xvii) Any other commercial activity of a similar nature, not related to the management, operation or maintenance of the Canal.

(b) Within thirty calendar months from the date of entry into force of this Treaty, governmental services such as:

(i) Police;

(ii) Courts; and

(iii) Prison system.

5. (a) With respect to those activities or functions described in paragraph 4 above, or otherwise agreed upon by the two Parties, which are to be assumed by the Government of the Republic of Panama or by private persons subject to its authority, the

two Parties shall consult prior to the discontinuance of such activities or functions by the Panama Canal Commission to develop appropriate arrangements for the orderly transfer and continued efficient operation or conduct thereof.

(b) In the event that appropriate arrangements cannot be arrived at to ensure the continued performance of a particular activity or function described in paragraph 4 above which is necessary to the efficient management, operation or maintenance of the Canal, the Panama Canal Commission may, to the extent consistent with the other provisions of this Treaty and related agreements, continue to perform such activity or function until such arrangements can be made.

AGREED MINUTE TO THE PANAMA CANAL TREATY

1. With reference to paragraph 1(c) of Article I (Abrogation of Prior Treaties and Establishment of a New Relationship), it is understood that the treaties, conventions, agreements and exchanges of notes, or portions thereof, abrogated and superseded thereby include:

(a) The Agreement delimiting the Canal Zone referred to in Article II of the Interoceanic Canal Convention of November 18, 1903 signed at Panama on June 15, 1904.[1]

(b) The Boundary Convention signed at Panama on September 2, 1914.[2]

(c) The Convention regarding the Colon Corridor and certain other corridors through the Canal Zone signed at Panama on May 24, 1950.[3]

(d) The Trans-Isthmian Highway Convention signed at Washington on March 2, 1936,[4] the Agreement supplementing that Convention entered into through an exchange of notes signed at Washington on August 31 and September 6, 1940,[5] and the arrangement between the United States of America and Panama respecting the Trans-Isthmian Joint Highway Board, entered into through an exchange of notes at Panama on October 19 and 23, 1939.[6]

(e) The Highway Convention between the United States and Panama signed at Panama on September 14, 1950.[7]

(f) The Convention regulating the transit of alcoholic liquors through the Canal Zone signed at Panama on March 14, 1932.[8]

(g) The Protocol of an Agreement restricting use of Panama and Canal Zone waters by belligerents signed at Washington on October 10, 1914.[9]

(h) The Agreement providing for the reciprocal recognition of motor vehicle license plates in Panama and the Canal Zone entered into through an exchange of notes at Panama on December 7 and December 12, 1950,[10] and the Agreement establishing procedures for the reciprocal recognition of motor vehicle operator's licenses in the Canal Zone and Panama entered into through an exchange of notes at Panama on October 31, 1960.[11]

(i) The General Relations Agreement entered into through an exchange of notes at Washington on May 18, 1942.[12]

(j) Any other treaty, convention, agreement or exchange of notes between the United States and the Republic of Panama, or portions thereof, concerning the Panama Canal which was entered into prior to the entry into force of the Panama Canal Treaty.

2. It is further understood that the following treaties, conventions, agreements and exchanges of notes between the two Parties are not affected by paragraph 1 of Article I of the Panama Canal Treaty:

(a) The Agreement confirming the cooperative agreement between the Panamanian Ministry of Agriculture and Livestock and the United States Department of Agriculture for the prevention of foot-and-mouth disease and rinderpest in Panama, entered into by an exchange of notes signed at Panama on June 21 and October 5, 1972,[13] and amended May 28 and June 12, 1974.[14]

(b) The Loan Agreement to assist Panama in executing public marketing programs in basic grains and perishables, with annex, signed at Panama on September 10, 1975.[15]

(c) The Agreement concerning the regulation of commercial aviation in the Republic of Panama, entered into by an exchange of notes signed at Panama on April 22, 1929.[16]

(d) The Air Transport Agreement signed at Panama on March 31, 1949,[17] and amended May 29 and June 3, 1952,[18] June 5, 1967,[19] December 23, 1974, and March 6, 1975.[20]

(e) The Agreement relating to the establishment of headquarters in Panama for a civil aviation technical assistance group for the Latin American area, entered into by an exchange of notes signed at Panama on August 8, 1952.[21]

(f) The Agreement relating to the furnishing by the Federal Aviation Agency of certain services and materials for air navigation aids, entered into by an exchange of notes signed at Panama on December 5, 1967 and February 22, 1968.[22]

(g) The Declaration permitting consuls to take note in person, or by authorized representatives, of declarations of values of exports made by shippers before customs officers, entered into by an exchange of notes signed at Washington on April 17, 1913.[23]

(h) The Agreement relating to customs privileges for consular officers, entered into by an exchange of notes signed at Panama on January 7 and 31, 1935.[24]

(i) The Agreement relating to the sale of military equipment, materials, and services to Panama, entered into by an exchange of notes signed at Panama on May 20, 1959.[25]

(j) The Agreement relating to the furnishing of defense articles and services to Panama for the purpose of contributing to its internal security, entered into by an exchange of notes signed at Panama on March 26 and May 23, 1962.[26]

(k) The Agreement relating to the deposit by Panama of ten percent of the value of grant military assistance and excess defense articles furnished by the United States, entered into by an exchange of notes signed at Panama on April 4 and May 9, 1972.[27]

(l) The Agreement concerning payment to the United States of net proceeds from the sale of defense articles furnished under the military assistance program, entered into by an exchange of notes signed at Panama on May 20 and December 6, 1974.[28]

(m) The General Agreement for Technical and Economic Cooperation, signed at Panama on December 11, 1961.[29]

(n) The Loan Agreement relating to the Panama City water supply system, with annex, signed at Panama on May 6, 1969, and amended September 30, 1971.[30]

(o) The Loan Agreement for rural municipal development in Panama, signed at Panama on November 28, 1975.[31]

(p) The Loan Agreement relating to a project for the modernization, restructuring and reorientation of Panama's educational programs, signed at Panama on November 19, 1975.[32]

(q) The Treaty providing for the extradition of criminals, signed at Panama on May 25, 1904.[33]

(r) The Agreement relating to legal tender and fractional silver coinage by Panama, entered into by an exchange of notes signed at Washington and New York on June 20, 1904,[34] and amended March 26 and April 2, 1930,[35] May 28 and June 6, 1931,[36] March 2, 1936,[37] June 17, 1946,[38] May 9 and 24, 1950,[39] September 11 and October 22, 1953, August 23 and October 25, 1961,[39] and September 26 and October 23, 1962.[39]

(s) The Agreement for enlargement and use by Canal Zone of sewerage facilities in Colon Free Zone Area, entered into by an exchange of notes signed at Panama on March 8 and 25, 1954.[40]

83-421 O - 81 - 7

(t) The Agreement relating to the construction of the inter-American highway, entered into by an exchange of notes signed at Panama on May 15 and June 7, 1943.[41]

(u) The Agreement for cooperation in the construction of the Panama segment of the Darien Gap highway, signed at Washington on May 6, 1971.[42]

(v) The Agreement relating to investment guaranties under sec. 413(b)(4) of the Mutual Security Act of 1954, as amended, entered into by an exchange of notes signed at Washington on January 23, 1961.[43]

(w) The Informal Arrangement relating to cooperation between the American Embassy, or Consulate, and Panamanian authorities when American merchant seamen or tourists are brought before a magistrate's court, entered into by an exchange of notes signed at Panama on September 18 and October 15, 1947.[44]

(x) The Agreement relating to the mutual recognition of ship measurement certificates, entered into by an exchange of notes signed at Washington on August 17, 1937.[45]

(y) The Agreement relating to the detail of a military officer to serve as adviser to the Minister of Foreign Affairs of Panama, signed at Washington on July 7, 1942,[46] and extended and amended February 17, March 23, September 22 and November 6, 1959,[47] March 26 and July 6, 1962, and September 20 and October 8, 1962.[48]

(z) The Agreement relating to the exchange of official publications, entered into by an exchange of notes signed at Panama on November 27, 1941 and March 7, 1942.[49]

(aa) The Convention for the Prevention of Smuggling of Intoxicating Liquors, signed at Washington on June 6, 1924.[50]

(bb) The Arrangement providing for relief from double income tax on shipping profits, entered into by an exchange of notes signed at Washington on January 15, February 8, and March 28, 1941.[51]

(cc) The Agreement for withholding of Panamanian income tax from compensation paid to Panamanians employed within Canal Zone by the canal, railroad, or auxiliary works, entered into by an exchange of notes signed at Panama on August 12 and 30, 1963.[52]

(dd) The Agreement relating to the withholding of contributions for educational insurance from salaries paid to certain Canal Zone employees, entered into by an exchange of notes signed at Panama on September 8 and October 13, 1972.[53]

(ee) The Agreement for radio communications between amateur stations on behalf of third parties, entered into by an exchange of notes signed at Panama on July 19 and August 1, 1956.[54]

(ff) The Agreement relating to the granting of reciprocal authorizations to permit licensed amateur radio operators of either country to operate

their stations in the other country, entered into by an exchange of notes signed at Panama on November 16, 1966.[55]

(gg) The Convention facilitating the work of traveling salesmen, signed at Washington on February 8, 1919.[56]

(hh) The Reciprocal Agreement for gratis nonimmigrant visas, entered into by an exchange of notes signed at Panama on March 27 and May 22 and 25, 1956.[57]

(ii) The Agreement modifying the Agreement of March 27 and May 22 and 25, 1956 for gratis nonimmigrant visas, entered into by an exchange of notes signed at Panama on June 14 and 17, 1971.[58]

(jj) Any other treaty, convention, agreement or exchange of notes, or portions thereof, which does not concern the Panama Canal and which is in force immediately prior to the entry into force of the Panama Canal Treaty.

3. With reference to paragraph 2 of Article X (Employment with the Panama Canal Commission), concerning the endeavor to ensure that the number of Panamanian nationals employed in relation to the total number of employees will conform to the proportion established under Panamanian law for foreign business enterprises, it is recognized that progress in this regard may require an extended period in consonance with the concept of a growing and orderly Panamanian participation, through training programs and otherwise, and that progress may be affected from time to

time by such actions as the transfer or discontinuance of functions and activities.

4. With reference to paragraph 10(a) of Article X, it is understood that the currently applicable United States law is that contained in Section 8336 of Title 5, United States Code.

5. With reference to paragraph 2 of Article XI (Transitional Provisions), the areas and installations in which the jurisdictional arrangements therein described shall apply during the transition period are as follows:

(a) The Canal operating areas and housing areas described in Annex A to the Agreement in Implementation of Article III of the Panama Canal Treaty.

(b) The Defense Sites and Areas of Military Coordination described in the Agreement in Implementation of Article IV of the Panama Canal Treaty.

(c) The Ports of Balboa and Cristobal described in Annex B of the Agreement in Implementation of Article III of the Panama Canal Treaty.

6. With reference to paragraph 4 of Article XI, the areas in which the police authorities of the Republic of Panama may conduct joint police patrols with the police authorities of the United States of America during the transition period are as follows:

(a) Those portions of the Canal operating areas open to the general public, the housing areas and the Ports of Balboa and Cristobal.

(b) Those areas of military coordination in which joint police patrols are established pursuant to the provisions of the Agreement in Implementation of Article IV of this Treaty, signed this date. The two police authorities shall develop appropriate administrative arrangements for the scheduling and conduct of such joint police patrols.

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[1] 10 Bevans 678.
[2] TS 610; 38 Stat. 1893; 10 Bevans 702.
[3] TIAS 3180; 6 UST 461.
[4] TS 946; 53 Stat. 1869; 10 Bevans 778.
[5] EAS 448; 58 Stat. 1598; 10 Bevans 796.
[6] EAS 168; 54 Stat. 2278; 10 Bevans 788.
[7] TIAS 3181; 6 UST 480.
[8] TS 861; 48 Stat. 1488; 10 Bevans 737.
[9] TS 597; 38 Stat. 2042; 10 Bevans 711.
[10] Not printed.
[11] TIAS 4716; 12 UST 301.
[12] EAS 452; 59 Stat. 1289.
[13] TIAS 7482; 23 UST 3108.
[14] TIAS 7888; 25 UST 1522.
[15] TIAS 8478; 28 UST 353.
[16] 10 Bevans 729.
[17] TIAS 1962; 63 Stat. 2450; 10 Bevans 857.
[18] TIAS 2551; 3 UST 4087.
[19] TIAS 6270; 18 UST 1212.
[20] TIAS 8036; 26 UST 307.
[21] TIAS 2691; 3 UST 5064.

[22] TIAS 6471; 19 UST 4731.
[23] TS 578; 10 Bevans 699.
[24] TIAS 3028; 5 UST 1520.
[25] TIAS 4234; 10 UST 1000.
[26] TIAS 5081; 13 UST 1294.
[27] TIAS 7353; 23 UST 897.
[28] TIAS 7977; 25 UST 3135.
[29] TIAS 4972; 13 UST 274.
[30] TIAS 8656; 28 UST 5711.
[31] TIAS 8925; 29 UST 2087.
[32] TIAS 8647; 28 UST 5471.
[33] TS 445; 34 Stat. 2851; 10 Bevans 673.
[34] 10 Bevans 681.
[35] 10 Bevans 731.
[36] 10 Bevans 734.
[37] 10 Bevans 771.
[38] 10 Bevans 834.
[39] Not printed.
[40] TIAS 2966; 5 UST 782.
[41] EAS 365; 57 Stat. 1298; 10 Bevans 826.
[42] TIAS 7111; 22 UST 602.
[43] TIAS 4976; 13 UST 293.
[44] Not printed.
[45] EAS 106; 50 Stat. 1626; 10 Bevans 781.
[46] EAS 258; 56 Stat. 1545; 10 Bevans 817.
[47] TIAS 4773; 12 UST 718.
[48] TIAS 5226; 13 UST 2600.
[49] EAS 243; 56 Stat. 1444; 10 Bevans 805.
[50] TS 707; 43 Stat. 1875; 10 Bevans 717.
[51] EAS 221; 55 Stat. 1363; 10 Bevans 801.
[52] TIAS 5445; 14 UST 1478.
[53] TIAS 7509; 23 UST 3495.
[54] TIAS 3617; 7 UST 2179.
[55] TIAS 6159; 17 UST 2215.
[56] TS 646; 41 Stat. 1696; 10 Bevans 714.
[57] TIAS 3573; 7 UST 905.
[58] TIAS 7142; 22 UST 815.

Agreement on Certain Activities of the United States of America in the Republic of Panama, September 7, 1977*

* T.I.A.S. 10,039.

PANAMA

Activities of the United States in Panama

Agreement effected by exchange of notes
Signed at Washington September 7, 1977;
Entered into force October 1, 1979.

AGREEMENT ON CERTAIN ACTIVITIES OF THE UNITED STATES OF AMERICA IN THE REPUBLIC OF PANAMA

Taking account of the Panama Canal Treaty[1] and related agreements signed this date by representatives of the United States of America and the Republic of Panama, the two Governments confirm their understanding that, in addition to the activities directly related to the specific purpose of the Panama Canal Treaty, the United States may conduct certain other activities in the Republic of Panama. Such other activities shall be conducted in accordance with the provisions of this Agreement.

1. The United States may conduct the following activities in the Republic of Panama:

(a) Tropic testing;

(b) Telecommunications, meteorological, navigational, and oceanographic activities;

(c) Activities of the Inter-American Geodetic Survey;

(d) Humanitarian relief operations, including search and rescue;

(e) Schooling of Latin American military personnel.

2. In order to carry out these activities, the United States may use installations within defense sites and military areas of coordination, and in such other areas of the Republic of Panama as may be mutually agreed.

[1] TIAS 10030; 33 UST.

3. The Agreement in Implementation of Article IV of the Panama Canal Treaty[1] shall apply to the conduct of these activities in the Republic of Panama, except as otherwise provided by arrangements between the two Parties.

(a) Active duty military personnel of the United States armed services assigned to these activities shall be considered to be "members of the Forces" within the meaning of the Agreement in Implementation of Article IV of the Panama Canal Treaty.

(b) Employees of the United States assigned to these activities who are nationals of the United States to whom United States passports have been issued or who are nationals of third countries who are not habitual residents of the Republic of Panama shall be considered to be "members of the civilian component" within the meaning of the Agreement in Implementation of Article IV of the Panama Canal Treaty.

(c) The spouse and children of persons referred to in sub-paragraphs (a) and (b) above, and other relatives of such persons who depend on them for their subsistence and who habitually live with them under the same roof, shall be considered to be "dependents" within the meaning of the Agreement in Implementation of Article IV of the Panama Canal Treaty.

(d) Military personnel of other Latin American countries assigned to school duty in the Republic of Panama pursuant to paragraph (1)(e) of this Agreement shall be entitled to the privileges authorized under Articles XI and XVIII of the Agreement in Implementation of Article IV of the Panama Canal Treaty.

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[1] TIAS 10032; 33 UST.

4. Changes in the activities listed above may be agreed upon by the two Parties through the Joint Committee created by Article III of the Agreement in Implementation of Article IV.

This Agreement shall enter into force simultaneously with the entry into force of the Panama Canal Treaty,[1] and expire when that Treaty expires; provided, however, that the authority of the United States to conduct schooling of Latin American military personnel in the United States Army School of the Americas shall expire five years after the entry into force of the Panama Canal Treaty unless the two Governments otherwise agree.

[1] Oct. 1, 1979.

ATTACHMENT

The following is an illustrative description of the manner in which the activities listed in paragraph 1 of the Agreement on Certain Activities of the United States in Panama are presently conducted:

A. Tropic Testing

1. The United States Army Tropic Test Center (USATTC) plans, conducts and reports on tropic environmental phases of development tests and provides advice and guidance on tropic test and evaluations matters to materiel developers, materiel producers, other services, and private industry.

2. Many of the marked climatic, seismic, and biological variations which exist in tropical areas of the world are represented in Panama, providing a singular geographic area in which military hardware can be subjected to tropic environmental extremes.

3. The Center occupies office, barracks, laboratory, maintenance and supply building space, and uses outlying test facilities consisting of 18,868 acres of real estate. These outlying test facilities are: Chiva Chiva test area; Battery McKenzie; Firing Point #6, Empire Range; and Gamboa test area. The latter area consists of approximately 7500 hectares of land located along both sides of the pipeline road from the town site of Gamboa to Gatun Lake, bounded approximately by map coordinates 410085, 355080, 282198, 310217, 375164, 410110. It has been used for developmental tests and for methodology studies

which provide background for studying the effects of a tropic environment on men and materiel. Range areas of the 193d Infantry Brigade, Empire Range, Piñas Light Artillery Range and Piñas Beach are also used by USATTC.

B. Telecommunications, Meteorological, Navigational, and Oceanographic Activities

1. Military Affiliate Radio Station (MARS): serves as a backup communication capability for the military services. Provides morale, health, and welfare communication for military services. Has capability to link with MARS affiliates in the United States.

2. USSOUTHCOM Mission Radio Station: provides voice communications between USSOUTHCOM elements in Panama and United States Military Groups in Central and South America.

3. Inter-American Military Networks:

a. The Inter-American Military Network (RECIM) Station.

b. The Inter-American Telecommunications System for the Air Force (SITFA) Station.

c. The Inter-American Naval Telecommunications Network (IANTN).

These United States military stations in three international networks provide a rapid means of communications among the military services of Latin America on military matters. Most Latin American countries operate their own station in each of these networks.

4. United States Navy Timation Station: A Navy satellite tracking site sponsored by the Navy Research Laboratory (NRL).

The tracking station is part of an overall Department of Defense program called the NAVSTAR Global Positioning System (GPS). The GPS program is directed toward the development and ultimate establishment, by the 1980's, of a system of 24 navigational satellites.

5. United States Army Atmospheric Sciences Laboratory Team: provides meteorological data from Central and South America.

6. Harbor Survey Assistance Program (HARSAP): a United States Naval oceanographic program which assists Western-Hemisphere countries to develop a hydrographic capability by conducting hydrographic surveys of harbors and waters. Data from these surveys are used to produce charts required to support Department of Defense and United States Merchant Marine operations. Additionally, under HARSAP, a new automated hydrographic survey collection and processing system is used to supplement in-country HARSAP survey efforts. This new system, the Hydrographic Survey and Charting System (HYSURCH), consists of a computer processing van, two boats, one officer, six enlisted personnel, six civilian engineers and technicians, and trainees from the host country.

7. Foreign Broadcast Information Service: monitors and translates into English reports appearing in the foreign public media.

C. Inter-American Geodetic Survey (IAGS)

IAGS is a regional activity, with headquarters for Latin American operations located in Panama. It is the nucleus for topographical activities conducted by the various Latin American nations. An IAGS cartography school is also conducted for Latin American students.

D. Humanitarian Relief Operations, Including Search and Rescue

United States military forces in Panama provide humanitarian relief to other Latin American countries in the event of natural disasters and to conduct searches for missing vessels in the waters of various Latin American nations.

E. Schooling for Latin American Military Personnel

1. Inter-American Naval Telecommunications Network Training Facility: conducts a formal course of instruction for operators and technicians of IANTN membership. This facility is supported by the IANTN communication assistance team, whose members are all bilingual.

2. The United States Army School of the Americas (USARSA): provides professional military training in Spanish for the armed forces of 17 Latin American states, accomplished through courses based on United States Army doctrine ranging from the Command and General Staff College Course, Advanced and Basic Officer Courses, and the Cadet Senior-year Course, to the Non-Commissioned Officer Leadership Course. In addition to this emphasis on professional training, the School of the Americas provides specialized training in resources management at the national level, small unit tactics, and technical skills. This latter type of skill training is responsive to particular needs of Latin American states.

3. Inter-American Air Forces Academy (IAAFA): provides professional education in Spanish for officers and technical training in aeronautical specialties for airmen of all the Latin American Republics.

Technical training in Spanish is provided from the unskilled level through the full spectrum of proficiency to the supervisory level, including transition training in new weapons systems. Approximately five percent of the Academy's 100-member instructor corps is composed of guest instructors who assist United States Air Force officers and airmen in conducting the courses. Specialized transition training is offered in the A/T-37, C-130, and UH-1H.

4. Small Craft Instruction and Technical Team (SCIATT): provides to the navies of Central America training in the operation and maintenance of small size boats.

Q. COMMUNICATION

1. Undersea Cables

Convention for Protection of Submarine Cables, March 14, 1884*

* 24 Stat. 989; T.S. 380.

Convention.

Convention between the United States of America and Germany, Argentine Confederation, Austria-Hungary, Belgium, Brazil, Costa-Rica, Denmark, Dominican Republic, Spain, United States of Colombia, France, Great Britain, Guatemala, Greece, Italy, Turkey, Netherlands, Persia, Portugal, Roumania, Russia, Salvador, Servia, Sweden and Norway, and Uruguay, for the protection of sub-marine cables. With an additional article concerning the means provided for admitting to the privileges of the Convention the Colonies of Great Britain, namely: Canada, Newfoundland, the Cape of Good Hope, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, West Australia, and New Zealand. Concluded at Paris, March 14, 1884; *ratification advised by the Senate June* 12, 1884; *ratified by the President January* 26, 1885; *ratifications by seventeen of the signatory power sexchanged at Paris April* 16, 1885; *proclaimed May* 22, 1885.

[The Convention, by agreement between the contracting parties, will become operative January 1, 1887.]

ARTICLE I.

La présente Convention s'applique, en dehors des eaux territoriales, à tous les câbles sous-marins légalement établis et qui atterrissent sur les territoires, colonies ou possessions de l'une ou de plusieurs des Hautes Parties contractantes.

ARTICLE I.

The present Convention shall be applicable, outside of the territorial waters, to all legally established submarine cables landed in the territories, colonies or possessions of one or more of the High Contracting Parties.

Application.

ARTICLE II.

La rupture ou la détérioration d'un câble sous-marin, faite volontairement ou par négligence coupable, et qui pourrait avoir pour résultat d'interrompre ou d'entraver, en tout ou en partie, les communications télégraphiques est punissable, sans préjudice de l'action civile en dommages et intérêts.

Cette disposition ne s'applique pas aux ruptures ou détériorations dont les auteurs n'auraient eu que le but légitime de protéger leur vie ou la sécurité de leurs bâtiments, après avoir pris toutes les précautions nécessaires pour éviter ces ruptures ou détériorations.

ARTICLE II.

The breaking or injury of a submarine cable, done willfully or through culpable negligence, and resulting in the total or partial interruption or embarrassment of telegraphic communication, shall be a punishable offense, but the punishment inflicted shall be no bar to a civil action for damages.

This provision shall not apply to ruptures or injuries when the parties guilty thereof have become so simply with the legitimate object of saving their lives or their vessels, after having taken all necessary precautions to avoid such ruptures or injuries.

Injury to cables to be punishable.

ARTICLE III.

Landing of cables.

Les Hautes Parties contractantes s'engagent à imposer, autant que possible, quand elles autoriseront l'atterrissement d'un câble sous-marin, les conditions de sûreté convenables, tant sous le rapport du tracé que sous celui des dimensions du câble.

ARTICLE IV.

Reparation of injury by one cable to another.

Le propriétaire d'un cable qui, par la pose ou la réparation de ce câble, cause la rupture ou la détérioration d'un autre câble doit supporter les frais de réparation que cette rupture ou cette détérioration aura rendus nécessaires, sans préjudice, s'il y a lieu, de l'application de l'article II. de la présente Convention.

ARTICLE V.

Cable-laying ships.

Les bâtiments occupés à la pose ou à la réparation des câbles sous-marins doivent observer les règles sur les signaux qui sont ou seront adoptées, d'un commun accord, par les Hautes Parties contractantes, en vue de prévenir les abordages.

Other vessels to withdraw from neighborhood.

Quand un bâtiment occupé à la réparation d'un câble porte lesdits signaux, les autres bâtiments qui aperçoivent ou sont en mesure d'apercevoir ces signaux doivent ou se retirer ou se tenir éloignés d'un mille nautique au moins de ce bâtiment, pour ne pas le gêner dans ses opérations.

Les engins ou filets des pêcheurs devront être tenus à la même distance.

Toutefois, les bateaux de pêche qui aperçoivent ou sont en mesure d'apercevoir un navire télégraphique portant lesdits signaux auront, pour se conformer à l'avertissement ainsi donné, un délai de vingt-quatre heures au plus, pendant lequel aucun obstacle ne devra être apporté à leurs manœuvres.

Les opérations du navire télégraphique devront être achevées dans le plus bref délai possible.

ARTICLE VI.

Avoidance of buoys.

Les bâtiments qui voient ou sont en mesure de voir les bouées destinées à indiquer la position des

ARTICLE III.

The High Contracting Parties agree to insist, as far as possible, when they shall authorize the landing of a submarine cable, upon suitable conditions of safety, both as regards the track of the cable and its dimensions.

ARTICLE IV.

The owner of a cable who, by the laying or repairing of that cable, shall cause the breaking or injury of another cable, shall be required to pay the cost of the repairs which such breaking or injury shall have rendered necessary, but such payment shall not bar the enforcement, if there be ground therefor, of article II. of this Convention.

ARTICLE V.

Vessels engaged in laying or repairing submarine cables must observe the rules concerning signals that have been or shall be adopted, by common consent, by the High Contracting Parties, with a view to preventing collisions at sea.

When a vessel engaged in repairing a cable carries the said signals, other vessels that see or are able to see those signals shall withdraw or keep at a distance of at least one nautical mile from such vessel, in order not to interfere with its operations.

Fishing gear and nets shall be kept at the same distance.

Nevertheless, a period of twenty-four hours at most shall be allowed to fishing vessels that perceive or are able to perceive a telegraph ship carrying the said signals, in order that they may be enabled to obey the notice thus given, and no obstacle shall be placed in the way of their operations during such period.

The operations of telegraph ships shall be finished as speedily as possible.

ARTICLE VI.

Vessels that see or are able to see buoys designed to show the position of cables when the latter are

câbles, en cas de pose, de dérangement ou de rupture, doivent se tenir éloignés de ces bouées à un quart de mille nautique au moins.

Les engins ou filets des pêcheurs devront être tenus à la même distance.

being laid, are out of order, or are broken, shall keep at a distance of one quarter of a nautical mile at least from such buoys.

Fishing nets and gear shall be kept at the same distance.

ARTICLE VII.

Les propriétaires des navires ou bâtiments qui peuvent prouver qu'ils ont sacrifié une ancre, un filet ou un autre engin de pêche, pour ne pas endommager un câble sous-marin, doivent être indemnisés par le propriétaire du câble.

Pour avoir droit à une telle indemnité, il faut, autant que possible, qu'aussitôt après l'accident, on ait dressé, pour le constater, un procès-verbal appuyé des témoignages des gens de l'équipage, et que le capitaine du navire fasse, dans les vingt-quatre heures de son arrivée au premier port de retour ou de relâche, sa déclaration aux autorités compétentes. Celles-ci en donnent avis aux autorités consulaires de la nation du propriétaire du câble.

ARTICLE VII.

Owners of ships or vessels who can prove that they have sacrificed an anchor, a net, or any other implement used in fishing, in order to avoid injuring a submarine cable, shall be indemnified by the owner of the cable.

Losses on account of cables.

In order to be entitled to such indemnity, one must prepare, whenever possible, immediately after the accident, in proof thereof, a statement supported by the testimony of the men belonging to the crew; and the captain of the vessel must, within twenty-four hours after arriving at the first port of temporary entry, make his declaration to the competent authorities. The latter shall give notice thereof to the consular authorities of the nation to which the owner of the cable belongs.

ARTICLE VIII.

Les tribunaux compétents pour connaître des infractions à la présente Convention sont ceux du pays auquel appartient le bâtiment à bord duquel l'infraction a été commise.

Il est, d'ailleurs, entendu que, dans les cas où la disposition insérée dans le précédent alinéa ne pourrait pas recevoir d'exécution, la répression des infractions à la présente Convention aurait lieu, dans chacun des États contractants à l'égard de ses nationaux, conformément aux règles générales de compétence pénale résultant des lois particulières de ces États ou des traités internationaux.

ARTICLE VIII.

The courts competent to take cognizance of infractions of this convention shall be those of the country to which the vessel on board of which the infraction has been committed belongs.

Court of country of infracting party to have jurisdiction.

It is, moreover, understood that, in cases in which the provision contained in the foregoing paragraph cannot be carried out, the repression of violations of this convention shall take place, in each of the contracting States, in the case of its subjects or citizens, in accordance with the general rules of penal competence established by the special laws of those States, or by international treaties.

ARTICLE IX.

La poursuite des infractions prévues aux articles II., V. et VI. de la présente Convention aura lieu par l'État ou en son nom.

ARTICLE IX.

Prosecutions on account of the infractions contemplated in articles II., V. and VI. of this convention, shall be instituted by the State or in its name.

Prosecution to be in name of State.

ARTICLE X.

Evidence of infractions.

Les infractions à la présente Convention pourront être constatées par tous les moyens de preuve admis dans la législation du pays où siége le tribunal saisi.

Lorsque les officiers commandant les bâtiments de guerre ou les bâtiments spécialement commissionnés à cet effet de l'une des Hautes Parties contractantes auront lieu de croire qu'une infraction aux mesures prévues par la présente Convention a été commise par un bâtiment autre qu'un bâtiment de guerre, ils pourront exiger du capitaine ou du patron l'exhibition des pièces officielles justifiant de la nationalité dudit bâtiment. Mention sommaire de cette exhibition sera faite immédiatement sur les pièces produites

En outre, des procès-verbaux pourront être dressés par lesdits officiers, quelle que soit la nationalité du bâtiment inculpé. Ces procès-verbaux seront dressés suivant les formes et dans la langue en usage dans le pays auquel appartient l'officier qui les dresse; ils pourront servir de moyen de preuve dans le pays où ils seront invoqués et suivant la législation de ce pays. Les inculpés et les témoins auront le droit d'y ajouter ou d'y faire ajouter, dans leur propre langue, toutes explications qu'ils croiront utiles; ces déclarations devront être dûment signées.

ARTICLE X.

Evidence of violations of this convention may be obtained by all methods of securing proof that are allowed by the laws of the country of the court before which a case has been brought.

When the officers commanding the vessels of war or the vessels specially commissioned for that purpose, of one of the High Contracting Parties, shall have reason to believe that an infraction of the measures provided for by this Convention has been committed by a vessel other than a vessel of war, they may require the captain or master to exhibit the official documents furnishing evidence of the nationality of the said vessel. Summary mention of such exhibition shall at once be made on the documents exhibited.

Reports may, moreover, be prepared by the said officers, whatever may be the nationality of the inculpated vessel. These reports shall be drawn up in the form and in the language in use in the country to which the officer drawing them up belongs; they may be used as evidence in the country in which they shall be invoked, and according to the laws of such country. The accused parties and the witnesses shall have the right to add or to cause to be added thereto, in their own language, any explanations that they may deem proper; these declarations shall be duly signed.

ARTICLE XI.

Speedy trials.

La procédure et le jugement des infractions aux dispositions de la présente Convention ont toujours lieu aussi sommairement que les lois et règlements en vigueur le permettent.

ARTICLE XI.

Proceedings and trial in cases of infractions of the provisions of this Convention shall always take place as summarily as the laws and regulations in force will permit.

ARTICLE XII.

Legislation to be recommended.

Les Hautes Parties contractantes s'engagent à prendre ou à proposer à leurs législatures respectives les mesures nécessaires pour assurer l'exécution de la présente Convention, et notamment pour faire punir soit de l'emprisonnement, soit de l'amende, soit de ces

ARTICLE XII.

The High Contracting Parties engage to take or to propose to their respective legislative bodies the measures necessary in order to secure the execution of this Convention, and especially in order to cause the punishment, either by fine or imprisonment, or both, of

deux peines, ceux qui contreviendraient aux dispositions des articles II., V. et VI.

ARTICLE XIII.

Les Hautes Parties contractantes se communiqueront les lois qui auraient déjà été rendues ou qui viendraient à l'être dans leurs États, relativement à l'objet de la présente Convention.

ARTICLE XIV.

Les États qui n'ont point pris part à la présente Convention sont admis à y adhérer, sur leur demande. Cette adhésion sera notifiée par la voie diplomatique au Gouvernement de la République française, et par celui-ci aux autres Gouvernements signataires.

ARTICLE XV.

Il est bien entendu que les stipulations de la présente Convention ne portent aucune atteinte à la liberté d'action des belligérants.

ARTICLE XVI.

La présente Convention sera mise à exécution à partir du jour dont les Hautes Parties contractantes conviendront.

Elle restera en vigueur pendant cinq années à dater de ce jour, et, dans le cas où aucune des Hautes Parties contractantes n'aurait notifié, douze mois avant l'expiration de ladite période de cinq années, son intention d'en faire cesser les effets, elle continuera à rester en vigueur une année, et ainsi de suite d'année en année.

Dans le cas où l'une des Puissances signataires dénoncerait la Convention, cette dénonciation n'aurait d'effet qu'à son égard.

ARTICLE XVII.

La présente Convention sera ratifiée; les ratifications en seront échangées à Paris, le plus tôt possible, et, au plus tard, dans le délai d'un an.

such persons as may violate the provisions of articles II., V. and VI.

ARTICLE XIII.

Interchange of laws.

The High Contracting Parties shall communicate to each other such laws as may already have been or as may hereafter be enacted in their respective countries, relative to the subject of this Convention.

ARTICLE XIV.

Other States may adhere.

States that have not taken part in this Convention shall be allowed to adhere thereto, on their requesting to do so. Notice of such adhesion shall be given, diplomatically, to the Government of the French Republic, and by the latter to the other signatory Governments.

ARTICLE XV.

Not to affect belligerents.

It is understood that the stipulations of this Convention shall in no wise affect the liberty of action of belligerents.

ARTICLE XVI.

Commencement and termination.

This Convention shall take effect on such day as shall be agreed upon by the High Contracting Parties.

It shall remain in force for five years from that day, and, in case none of the High Contracting Parties shall have given notice, twelve months previously to the expiration of the said period of five years, of its intention to cause its effects to cease, it shall continue in force for one year, and so on from year to year.

In case one of the Signatory Powers shall give notice of its desire for the cessation of the effects of the Convention, such notice shall be effective as regards that Power only.

ARTICLE XVII.

Ratification.

This Convention shall be ratified; its ratifications shall be exchanged at Paris as speedily as possible, and within one year at the latest.

En foi de quoi, les Plénipotentiaires respectifs l'ont signée et y ont apposé leurs cachets.

Fait en vingt-six exemplaires, à Paris, le 14 mars 1884.

Signatures.

[SEAL.] L. P. MORTON.
[SEAL.] HENRY VIGNAUD.
[SEAL.] HOHENLOHE.
[SEAL.] M. BALCARCE.
[SEAL.] LADISLAS comte HOYOS.
[SEAL.] BEYENS.
[SEAL.] LÉOPOLD ORBAN.
[SEAL.] vte D'ITAJUBÁ.
[SEAL.] LÉON SOMZÉE.
[SEAL.] MOLTKE-HVITFELDT.
[SEAL.] EMANUEL DE ALMEDA.
[SEAL.] MANUEL SILVELA.
[SEAL.] JOSÉ G. TRIANA.
[SEAL.] JULES FERRY.
[SEAL.] AD. COCHERY.
[SEAL.] LYONS.
[SEAL.] CRISANTO MEDINA.
[SEAL.] MAUROCORDATO.
[SEAL.] MENABREA.
[SEAL.] ESSAD.
[SEAL.] mr. DE ZUYLEN DE NYEVELT.
[SEAL.] NAZARE-AGA.
[SEAL.] F. D'AZEVEDO.
[SEAL.] ODOBESCO.
[SEAL.] PRINCE ORLOFF.
[SEAL.] J. M. TORRES-CAÏCEDO.
[SEAL.] J. MARINOVITCH.
[SEAL.] G. SIBBERN.
[SEAL.] JUAN J. DIAZ.

In testimony whereof, the respective Plenipotentiaries have signed it, and have thereunto affixed their seals.

Done in twenty-six copies, at Paris, this 14th day of March, 1884.

[L. S.] L. P. MORTON.
[L. S.] HENRY VIGNAUD.
[L. S.] HOHENLOHE.
[L. S.] M. BALCARCE.
[L. S.] LADISLAS count HOYOS.
[L. S.] BEYENS.
[L. S.] LEOPOLD ORBAN.
[L. S.] vte. D'ITAJUBÁ.
[L. S.] LÉON SOMZÉE.
[L. S.] MOLTKE-HVITFELDT.
[L. S.] EMANUEL DE ALMEDA.
[L. S.] MANUEL SILVELA.
[L. S.] JOSÉ G. TRIANA.
[L. S.] JULES FERRY.
[L. S.] AD. COCHERY.
[L. S.] LYONS.
[L. S.] CRISANTO MEDINA.
[L. S.] MAUROCORDATO.
[L. S.] MENABREA.
[L. S.] ESSAD.
[L. S.] mr. DE ZUYLEN DE NYEVELT.
[L. S.] NAZARE-AGA.
[L. S.] F. D'AZEVEDO.
[L. S.] ODOBESCO.
[L. S.] PRINCE ORLOFF.
[L. S.] J. M. TORRES-CAÏCEDO.
[L. S.] J. MARINOVITCH.
[L. S.] G. SIBBERN.
[L. S.] JUAN J. DIAZ.

ARTICLE ADDITIONNEL.

ADDITIONAL ARTICLE.

Additional article.

Les stipulations de la Convention conclue, à la date de ce jour, pour la protection des câbles sous-marins seront applicables, conformément à l'article 1er, aux colonies et possessions de Sa Majesté Britannique, à l'exception de celles ci-après dénommées, savoir :

British colonies excepted.

Le Canada;
Terre-Neuve;
Le Cap;
Natal;
La Nouvelle-Galles du Sud;
Victoria;
Queensland;
La Tasmanie;
L'Australie du Sud;
L'Australie occidentale;
La Nouvelle-Zélande.

The stipulations of the Convention concluded this day for the protection of submarine cables shall be applicable, according to Article I., to the colonies and possessions of Her Britannic Majesty with the exception of those named below, to wit:

Canada.
Newfoundland.
The Cape.
Natal.
New South Wales.
Victoria.
Queensland.
Tasmania.
South Australia.
West Australia.
New Zealand.

Toutefois, les stipulations de ladite Convention seront applicables à l'une des colonies ou possessions

Nevertheless, the stipulations of the said Convention shall be applicable to one of the above-named

ci-dessus indiquées, si, en leur nom, une notification à cet effet a été adressée par le Représentant de Sa Majesté Britannique à Paris, au Ministre des Affaires étrangères de France.

Chacune des colonies ou possessions ci-dessus dénommées qui aurait adhéré à ladite Convention, conserve la faculté de se retirer de la même manière que les Puissances contractantes. Dans le cas où l'une des colonies ou possessions dont il s'agit désirerait se retirer de la Convention, une notification à cet effet serait adressée par le Représentant de Sa Majesté Britannique à Paris au Ministre des Affaires étrangères de France.

Fait en vingt-six exemplaires à Paris, le 14 mars, 1884:

colonies or possessions, if, in their [its?] name, a notification to that effect has been addressed by the representative of Her Britannic Majesty at Paris to the Minister of Foreign Affairs of France.

Each of the above-named Colonies or possessions that shall have adhered to the said Convention, shall have the privilege of withdrawing in the same manner as the contracting powers. In case one of the colonies or possessions in question shall desire to withdraw from the Convention, a notification to that effect shall be addressed by Her Britannic Majesty's representative at Paris to the Minister of Foreign Affairs of France. Colonies may adhere.

Done in twenty-six copies at Paris, this fourteenth day of March, 1884.

L. P. MORTON.	L. P. MORTON.
HENRY VIGNAUD.	HENRY VIGNAUD.
HOHENLOHE.	HOHENLOHE.
M. BALCARCE.	M. BALCARCE.
LADISLAS comte HOYOS.	LADISLAS COUNT HOYOS.
BEYENS.	BEYENS.
LÉOPOLD ORBAN.	LÉOPOLD ORBAN.
m. D'ITAJUBÁ.	m. D'ITAJUBÁ.
LÉON SOMZÉE.	LÉON SOMZÉE.
MOLTKE-HVITFELDT.	MOLTKE-HVITFELDT.
EMANUEL DE ALMEDA.	EMANUEL DE ALMEDA.
MANUEL SILVELA.	MANUEL SILVELA.
JOSÉ G. TRIANA.	JOSÉ G. TRIANA.
JULES FERRY.	JULES FERRY.
AD. COCHERY.	AD. COCHERY.
LYONS.	LYONS.
CRISTANTO MEDINA.	CRISANTO MEDINA.
MAUROCORDATO.	MAUROCORDATO.
MENABREA.	MENABREA.
ESSAD.	ESSAD.
m. DE ZUYLEN DE NYEVELT.	m. DE ZUYLEN DE NYEVELT.
NAZARE-AGA.	NAZARE-AGA.
F. D'AZEVEDO.	F. D'AZEVEDO.
ODOBESCO.	ODOBESCO.
PRINCE ORLOFF.	PRINCE ORLOFF.
J. M. TORRES-CAÏCEDO.	J. M. TORRES-CAÏCEDO.
J. MARINOVITCH.	J. MARINOVITCH.
G. SIBBERN.	G. SIBBERN.
JUAN J. DIAZ.	JUAN J. DIAZ.

Signatures.

Preamble.

And whereas the said Convention has been duly ratified by the United States of America on the one hand, and by seventeen of the signatory powers on the other hand, and the respective ratifications were exchanged at Paris on the sixteenth day of April, one thousand eight hundred and eighty-five;

And whereas pursuant to Article XVI. of said Convention, the contracting parties have agreed upon the fifteenth day of January one thousand eight hundred and eighty-six, as the date on which the same shall go into effect;

2. Broadcasting

European Agreement for the Prevention of Broadcasts Transmitted from Stations Outside National Territories, January 22, 1965*

* 634 U.N.T.S. 240.

No. 9066. EUROPEAN AGREEMENT [1] FOR THE PREVENTION OF BROADCASTS TRANSMITTED FROM STATIONS OUTSIDE NATIONAL TERRITORIES. DONE AT STRASBOURG, ON 22 JANUARY 1965

The member States of the Council of Europe signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members ;

Considering that the Radio Regulations annexed to the International Telecommunication Convention [2] prohibit the establishment and use of broadcasting stations on board ships, aircraft or any other floating or airborne objects outside national territories ;

Considering also the desirability of providing for the possibility of preventing the establishment and use of broadcasting stations on objects affixed to or supported by the bed of the sea outside national territories ;

Considering the desirability of European collaboration in this matter,

Have agreed as follows :

Article 1

This Agreement is concerned with broadcasting stations which are installed or maintained on board ships, aircraft, or any other floating or

---

[1] Came into force on 19 October 1967, i.e., one month after the date of deposit of the third instrument of ratification, in accordance with article 9 (1), with respect to the following States, on whose behalf instruments of ratification were deposited with the Secretary-General of the Council of Europe on the dates indicated below :

State	*Date of deposit*
Denmark	22 September 1965
Sweden	15 June 1966
Belgium	18 September 1967

The Agreement subsequently came into force with respect to the following States one month after the date of deposit of their instruments of ratification as indicated below :

State	*Date of deposit*	*Date of entry into force*
United Kingdom of Great Britain and Northern Ireland (also applicable to Channel Islands and the Isle of Man)*	2 November 1967	3 December 1967
France	5 March 1968	6 April 1968

* For the text of the declaration made at the time of signature, see p. 253 of this volume.

[2] United Kingdom, *Treaty Series, No. 74 (1961)*, Cmnd. 1484.

airborne objects and which, outside national territories, transmit broadcasts intended for reception or capable of being received, wholly or in part, within the territory of any Contracting Party, or which cause harmful interference to any radio-communication service operating under the authority of a Contracting Party in accordance with the Radio Regulations.

Article 2

1. Each Contracting Party undertakes to take appropriate steps to make punishable as offences, in accordance with its domestic law, the establishment or operation of broadcasting stations referred to in Article 1, as well as acts of collaboration knowingly performed.

2. The following shall, in relation to broadcasting stations referred to in Article 1, be acts of collaboration :

(*a*) the provision, maintenance or repairing of equipment ;

(*b*) the provision of supplies ;

(*c*) the provision of transport for, or the transporting of, persons, equipment or supplies ;

(*d*) the ordering or production of material of any kind, including advertisements, to be broadcast ;

(*e*) the provision of services concerning advertising for the benefit of the stations.

Article 3

Each Contracting Party shall, in accordance with its domestic law, apply the provisions of this Agreement in regard to :

(*a*) its nationals who have committed any act referred to in Article 2 on its territory, ships or aircraft, or outside national territories on any ships, aircraft or any other floating or airborne object ;

(*b*) non-nationals who, on its territory, ships or aircraft, or on board any floating or airborne object under its jurisdiction have committed any act referred to in Article 2.

Article 4

Nothing in this Agreement shall be deemed to prevent a Contracting Party :

(*a*) from also treating as punishable offences acts other than those referred to in Article 2 and also applying the provisions concerned to persons other than those referred to in Article 3 ;

(*b*) from also applying the provisions of this Agreement to broadcasting stations installed or maintained on objects affixed to or supported by the bed of the sea.

Article 5

The Contracting Parties may elect not to apply the provisions of this Agreement in respect of the services of performers which have been provided elsewhere than on the stations referred to in Article 1.

Article 6

The provisions of Article 2 shall not apply to any acts performed for the purpose of giving assistance to a ship or aircraft or any other floating or airborne object in distress or of protecting human life.

Article 7

No reservation may be made to the provisions of this Agreement.

Article 8

1. This Agreement shall be open to signature by the member States of the Council of Europe, which may become Parties to it either by :

(*a*) signature without reservation in respect of ratification or acceptance, or

(*b*) signature with reservation in respect of ratification or acceptance followed by ratification or acceptance.

2. Instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.

Article 9

1. This Agreement shall enter into force one month after the date on which three member States of the Council shall, in accordance with the provisions of Article 8, have signed the Agreement without reservation in respect of ratification or acceptance, or shall have deposited their instrument of ratification or acceptance.

2. As regards any member State which shall subsequently sign the Agreement without reservation in respect of ratification or acceptance or which shall ratify or accept it, the Agreement shall enter into force one month after the date of such signature or the date of deposit of the instrument of ratification or acceptance.

Article 10

1. After this Agreement has entered into force, any Member or Associate Member of the International Telecommunication Union which is not a Member of the Council of Europe may accede to it subject to the prior agreement of the Committee of Ministers.

2. Such accession shall be effected by depositing with the Secretary-General of the Council of Europe an instrument of accession which shall take effect one month after the date of its deposit.

Article 11

1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Agreement shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary-General of the Council of Europe, extend this Agreement to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 12 of this Agreement.

Article 12

1. This Agreement shall remain in force indefinitely.

2. Any Contracting Party may, in so far as it is concerned, denounce this Agreement by means of a notification addressed to the Secretary-General of the Council of Europe.

3. Such denunciation shall take effect six months after the date of receipt by the Secretary-General of such notification.

Article 13

The Secretary-General of the Council of Europe shall notify the member States of the Council and the Government of any State which has acceded to this Agreement of :

(*a*) any signature without reservation in respect of ratification or acceptance ;

(*b*) any signature with reservation in respect of ratification or acceptance ;

(*c*) any deposit of an instrument of ratification, acceptance or accession ;

(*d*) any date of entry into force of this Agreement in accordance with Articles 9 and 10 thereof ;

(*e*) any declaration received in pursuance of paragraphs 2 and 3 of Article 11 ;

(*f*) any notification received in pursuance of the provisions of Article 12 and the date on which denunciation takes effect.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at Strasbourg, this 22nd day of January 1965 in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

R. MARITIME SECURITY

1. Defensive Declarations

Declaration of Panama, October 3, 1939*

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/1 at 144 (1951); 34 AM. J. INT'L L. 17 (Supp. 1940).

XIV

Declaration of Panamá

The Governments of the American Republics meeting at Panamá, have solemnly ratified their neutral status in the conflict which is disrupting the peace of Europe, but the present war may lead to unexpected results which may affect the fundamental interests of America and there can be no justification for the interests of the belligerents to prevail over the rights of neutrals causing disturbances and suffering to nations which by their neutrality in the conflict and their distance from the scene of events, should not be burdened with its fatal and painful consequences.

During the World War of 1914–1918 the Governments of Argentina, Brazil, Chile, Colombia, Ecuador and Peru advanced, or supported, individual proposals providing in principle a declaration by the American Republics that the belligerent nations must refrain from committing hostile acts within a reasonable distance from their shores.

The nature of the present conflagration, in spite of its already lamentable proportions, would not justify any obstruction to inter-American communications which, engendered by important interests, call for adequate protection. This fact requires the demarcation of a zone of security including all the normal maritime routes of communication and trade between the countries of America.

To this end it is essential as a measure of necessity to adopt immediately provisions based on the above-mentioned precedents for the safeguarding of such interests, in order to avoid a repetition of the damages and sufferings sustained by the American nations and by their citizens in the war of 1914–1918.

There is no doubt that the Governments of the American Republics must foresee those dangers and as a measure of self-protection insist that the waters to a reasonable distance from their coasts shall remain free from the commission of hostile acts or from the undertaking of belligerent activities by nations engaged in a war in which the said governments are not involved.

For these reasons the Governments of the American Republics Resolve and Hereby Declare:

1. As a measure of continental self-protection, the American Republics, so long as they maintain their neutrality, are as of inherent right entitled to have those waters adjacent to the American continent, which they regard as of primary concern and direct utility in their relations, free from the commission of any hostile act by any non-American belligerent nation, whether such hostile act be attempted or made from land, sea or air.

Such waters shall be defined as follows. All waters comprised within the limits set forth hereafter except the territorial waters of Canada and of the undisputed colonies and possessions of European countries within these limits:

Beginning at the terminus of the United States–Canada boundary in Passamaquoddy Bay, in 44° 46′ 36″ north latitude, and 66° 54′ 11″ west longitude;

Thence due east along the parallel 44° 46′ 36″ to a point 60° west of Greenwich;

Thence due south to a point in 20° north latitude;

Thence by a rhumb line to a point in 5° north latitude, 24° west longitude;

Thence due south to a point in 20° south latitude;

Thence by a rhumb line to a point in 58° south latitude, 57° west longitude;

Thence due west to a point in 80° west longitude;

Thence by a rhumb line to a point on the equator in 97° west longitude;

Thence by a rhumb line to a point in 15° north latitude, 120° west longitude;

Thence by a rhumb line to a point in 48° 29′ 38″ north latitude, 136° west longitude;

Thence due east to the Pacific terminus of the United States–Canada boundary in the Strait of Juan de Fuca.

2. The Governments of the American Republics agree that they will endeavor, through joint representation to such belligerents as may now or in the future be engaged in hostilities, to secure the compliance by them with the provisions of this Declaration, without prejudice to the exercise of the individual rights of each state inherent in their sovereignty.

3. The Governments of the American Republics further declare that whenever they consider it necessary they will consult together to determine upon the measures which they may individually or collectively undertake in order to secure the observance of the provisions of this Declaration.

4. The American Republics, during the existence of a state of war in which they themselves are not involved, may undertake, whenever they may determine that the need therefore exists, to patrol, either individually or collectively, as may be agreed upon by common consent, and in so far as the means and resources of each may permit, the waters adjacent to their coasts within the area above defined. (Approved October 3, 1939.)

Address by President Kennedy concerning the Cuban Missile Crisis, October 22, 1962*

* U.S. Dept. State Newsletter No. 19 at 3 (November 1962).

PRESIDENT KENNEDY SPEAKS

The Address that Alerted the Free World To the Soviet Menace in Cuba

Following is the text of the President's address of October 22 in which he announced (1) that the Soviet Union was building offensive missile and bomber bases in Cuba and (2) that the United States was imposing a naval and air quarantine on the shipment of offensive military equipment to Cuba:

THIS Government, as promised, has maintained the closest surveillance of the Soviet military buildup on the island of Cuba. Within the past week unmistakable evidence has established the fact that a series of offensive missile sites is now in preparation on that imprisoned island. The purpose of these bases can be none other than to provide a nuclear strike capability against the Western Hemisphere.

Upon receiving the first preliminary hard information of this nature last Tuesday morning (October 16) at 9:00 a.m., I directed that our surveillance be stepped up. And having now confirmed and completed our evaluation of the evidence and our decision on a course of action, this Government feels obliged to report this new crisis to you in fullest detail.

The characteristics of these new missile sites indicate two distinct types of installations. Several of them include medium-range ballistic missiles capable of carrying a nuclear warhead for a distance of more than 1,000 nautical miles. Each of these missiles, in short, is capable of striking Washington, D.C., the Panama Canal, Cape Canaveral, Mexico City, or any other city in the southeastern part of the United States, in Central America, or in the Caribbean area.

Additional sites not yet completed appear to be designed for intermediate-range ballistic missiles capable of traveling more than twice as far—and thus capable of striking most of the major cities in the Western Hemisphere, ranging as far north as Hudson Bay, Canada, and as far south as Lima, Peru. In addition, jet bombers, capable of carrying nuclear weapons, are now being uncrated and assembled in Cuba, while the necessary air bases are being prepared.

This urgent transformation of Cuba into an important strategic base—by the presence of these large, long-range, and clearly offensive weapons of sudden mass destruction—constitutes an explicit threat to the peace and security of all the Americas, in flagrant and deliberate defiance of the Rio Pact of 1947, the traditions of this nation and hemisphere, the Joint Resolution of the 87th Congress, the Charter of the United Nations, and my own public warnings to the Soviets on September 4 and 13.

This action also contradicts the repeated assurances of Soviet spokesmen, both publicly and privately delivered, that the arms buildup in Cuba would retain its original defensive character and that the Soviet Union had no need or desire to station strategic missiles on the territory of any other nation.

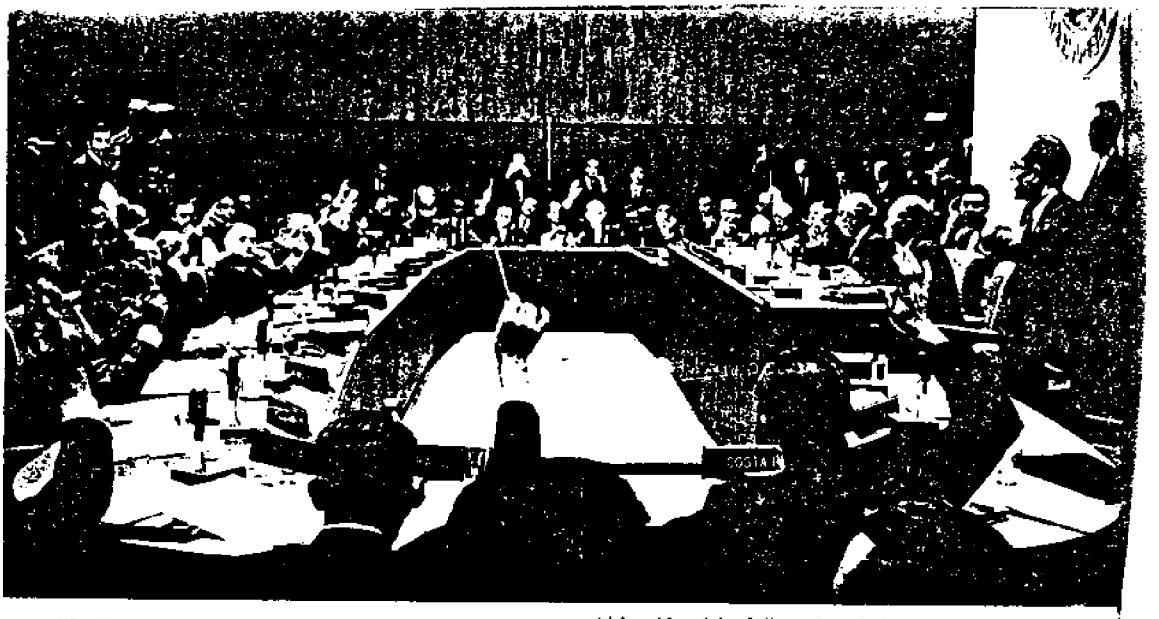
THE size of this undertaking makes clear that it has been planned for some months. Yet only last month, after I had made clear the distinction between any introduction of ground-to-ground missiles and the existence of defensive antiaircraft missiles, the Soviet Government publicly stated on September 11 that, and I quote, "The armaments and military equipment sent to Cuba are designed exclusively for defensive purposes," and, and I quote the Soviet Government, "There is no need for the Soviet Government to shift its weapons for a retaliatory blow to any other country, for instance Cuba," and that, and I quote the Government, "The Soviet Union has so powerful rockets to carry these nuclear warheads that there is no need to search for sites for them beyond the boundaries of the Soviet Union." That statement was false.

Only last Thursday, as evidence of this rapid offensive buildup was already in my hand, Soviet Foreign Minister Gromyko told me in my office that he was instructed to make it clear once again, as he said his Government had already done, that Soviet assistance to Cuba, and I quote, "pursued solely the purpose of contributing to the defense capabilities of Cuba," that, and I quote him, "training by Soviet specialists of Cuban nationals in handling defensive armaments was by no means offensive," and that "if it were otherwise," Mr. Gromyko went on, "the Soviet Government would never become involved in rendering such assistance." That statement also was false.

NEITHER the United States of America nor the world community of nations can tolerate deliberate deception and offensive threats on the part of any nation, large or small. We no longer live in a world where only the actual firing of weapons represents a sufficient challenge to a nation's security to constitute maximum peril. Nuclear weapons are so destructive and ballistic missiles are so swift that any substantially increased possibility of their use or any sudden change in their deployment may well be regarded as a definite threat to peace.

For many years both the Soviet Union and the United States, recognizing this fact, have deployed strategic nuclear weapons with great care, never upsetting the precarious status quo which insured that these weapons would not be used in the absence of some vital challenge. Our own strategic missiles have never been transferred to the territory of any other nation under a cloak of secrecy and deception; and our history, unlike that of the Soviets since the end of World War II, demonstrates that we have no desire to dominate or conquer any other nation or impose our system upon its people. Nevertheless, American citizens have become adjusted to living daily on the bull's eye of Soviet missiles located inside the U.S.S.R. or in submarines.

In that sense missiles in Cuba add to an already clear and present danger—although it should be



HEMISPHERIC SOLIDARITY--The Organization of American States, meeting in Washington October 23, votes approval of a resolution supporting President Kennedy's action to impose a quarantine of shipment of offensive military equipment to Cuba. The vote was 19 to 0 with the Uruguayan delegate temporarily abstaining pending instructions from his government. Uruguay soon voted affirmatively, making the vote unanimous. The resolution called for the "immediate dismantling and withdrawal from Cuba of all missiles and other weapons with any offensive capability" and recommends that member states "take all measures, individually and collectively, including the use of armed force . . . to ensure that the Government of Cuba cannot continue to receive from the Sino-Soviet powers military material and related supplies which may threaten the peace and security of the continent." The OAS action followed U.S. disclosure of missile bases in Cuba.

noted the nations of Latin America have never previously been subjected to a potential nuclear threat.

But this secret, swift, and extraordinary buildup of Communist missiles—in an area well known to have a special and historical relationship to the United States and the nations of the Western Hemisphere, in violation of Soviet assurances, and in defiance of American and hemispheric policy—this sudden, clandestine decision to station strategic weapons for the first time outside of Soviet soil—is a deliberately provocative and unjustified change in the status quo which cannot be accepted by this country if our courage and our commitments are ever to be trusted again by either friend or foe.

The 1930's taught us a clear lesson: Aggressive conduct, if allowed to grow unchecked and unchallenged, ultimately leads to war. This nation is opposed to war. We are also true to our word. Our unswerving objective, therefore, must be to prevent the use of these missiles against this or any other country and to secure their withdrawal or elimination from the Western Hemisphere.

Our policy has been one of patience and restraint, as befits a peaceful and powerful nation, which leads a worldwide alliance. We have been determined not to be diverted from our central concerns by mere irritants and fanatics. But now further action is required—and it is underway; and these actions may only be the beginning. We will not prematurely or unnecessarily risk the costs of worldwide nuclear war in which even the fruits of victory would be ashes in our mouth—but neither will we shrink from that risk at any time it must be faced.

Acting, therefore, in the defense of our own security and of the entire Western Hemisphere, and under the authority entrusted to me by the Constitution as endorsed by the resolution of the Congress, I have directed that the following initial steps be taken immediately:

First: To halt this offensive buildup, a strict quarantine on all offensive military equipment under shipment to Cuba is being initiated. All ships of any kind bound for Cuba from whatever nation or port will, if found to contain cargoes of offensive weapons, be turned back. This quarantine will be extended, if needed, to other types of cargo and carriers. We are not at this time, however, denying the necessities of life as the Soviets attempted to do in their Berlin blockade of 1948.

Second: I have directed the continued and increased close surveillance of Cuba and its military buildup. The Foreign Ministers of the OAS (Organization of American States) in their communique of October 6 rejected secrecy on such matters in this hemisphere. Should these offensive military preparations continue, thus increasing the threat to the hemisphere, further action will be justified. I have directed the Armed Forces to prepare for any eventualities; and I trust that, in the interest of both the Cuban people and the Soviet technicians at the sites, the hazards to all concerned of continuing this threat will be recognized.

Third: It shall be the policy of this nation to regard any nuclear missile launched from Cuba against any nation in the Western Hemisphere as an attack by the Soviet Union on the United States, requiring a full retaliatory response upon the Soviet Union.

Fourth: As a necessary military precaution I have reinforced our base at Guantanamo, evacuated today the dependents of our personnel there, and ordered additional military units to be on a standby alert basis.

Fifth: We are calling tonight for an immediate meeting of the Organ of Consultation, under the Organization of American States, to con-

sider this threat to hemispheric security and to invoke articles 6 and 8 of the Rio Treaty in support of all necessary action. The United Nations Charter allows for regional security arrangements—and the nations of this hemisphere decided long ago against the military presence of outside powers. Our other allies around the world have also been alerted.

Sixth: Under the Charter of the United Nations, we are asking tonight that an emergency meeting of the Security Council be convoked without delay to take action against this latest Soviet threat to world peace. Our resolution will call for the prompt dismantling and withdrawal of all offensive weapons in Cuba, under the supervision of U.N. observers, before the quarantine can be lifted.

Seventh and finally: I call upon Chairman Khrushchev to halt and eliminate this clandestine, reckless, and provocative threat to world peace and to stable relations between our two nations. I call upon him further to abandon this course of world domination, and to join in an historic effort to end the perilous arms race and transform the history of man. He has an opportunity now to move the world back from the abyss of destruction—by returning to his Government's own words that it had no need to station missiles outside its own territory, and withdrawing these weapons from Cuba—by refraining from any action which will widen or deepen the present crisis—and then by participating in a search for peaceful and permanent solutions.

This nation is prepared to present its case against the Soviet threat to peace, and our own proposals for a peaceful world, at any time and in any forum—in the OAS, in the United Nations, or in any other meeting that could be useful—without limiting our freedom of action.

We have in the past made strenuous efforts to limit the spread of nuclear weapons. We have proposed the elimination of all arms and military bases in a fair and effective disarmament treaty. We are prepared to discuss new proposals for the removal of tensions on both sides—including the possibilities of a genuinely independent Cuba, free to determine its own destiny. We have no wish to war with the Soviet Union, for we are a peaceful people who desire to live in peace with all other peoples.

But it is difficult to settle or even discuss these problems in an atmosphere of intimidation. That is why this latest Soviet threat—or any other threat which is made either independently or in response to our actions this week—must and will be met with determination. Any hostile move anywhere in the world against the safety and freedom of peoples to whom we are committed—including in particular the brave people of West Berlin—will be met by whatever action is needed.

CUBAN CRISIS COMMITTEE--Members of President Kennedy's special coordinating committee on the Cuban crisis examine maps of the island at the U.S. Mission to the United Nations in New York on October 30. They are, left to right, George W. Ball, Under Secretary of State; John J. McCloy, former Presidential Adviser on Disarmament and Special Adviser to U.S. Ambassador Adlai E. Stevenson; and Chairman of the Committee; and Roswell L. Gilpatric, Deputy Secretary of Defense, who are devoting full time to the crisis.

Finally, I want to say a few words to the captive people of Cuba, to whom this speech is being directly carried by special radio facilities. I speak to you as a friend, as one who knows of your deep attachment to your fatherland, as one who shares your aspirations for liberty and justice for all. And I have watched and the American people have watched with deep sorrow how your nationalist revolution was betrayed and how your fatherland fell under foreign domination. Now your leaders are no longer Cuban leaders inspired by Cuban ideals. They are puppets and agents of an international conspiracy which has turned Cuba against your friends and neighbors in the Americas—and turned it into the first Latin American country to become a target for nuclear war, the first Latin American country to have these weapons on its soil.

These new weapons are not in your interest. They contribute nothing to your peace and well being. They can only undermine it. But this country has no wish to cause you to suffer or to impose any system upon you. We know that your lives and land are being used as pawns by those who deny you freedom.

Many times in the past the Cuban people have risen to throw out tyrants who destroyed their liberty. And I have no doubt that most Cubans today look forward to the time when they will be truly free—free from foreign domination, free to choose their own leaders, free to select their own system, free to own their own land, free to speak and write and worship without fear or degradation. And then shall Cuba be welcomed back to the society of free nations and to the associations of this hemisphere.

My fellow citizens, let no one doubt that this is a difficult and dangerous effort on which we have set out. No one can foresee precisely what course it will take or what costs or casualties will be incurred. Many months of sacrifice and self-discipline lie ahead--months in which both our patience and our will will be tested, months in which many threats and denunciations will keep us aware of our dangers. But the greatest danger of all would be to do nothing.

The path we have chosen for the present is full of hazards, as all paths are; but it is the one most consistent with our character and courage as a nation and our commitments around the world. The cost of freedom is always high—but Americans have always paid it. And one path we shall never choose, and that is the path of surrender or submission.

Our goal is not the victory of might but the vindication of right—not peace at the expense of freedom, but both peace and freedom, here in this hemisphere and, we hope, around the world. God willing, that goal will be achieved.

Vietnam Decree on Sea Surveillance, April 27, 1965*

* 4 I.L.M. 461.

VIET-NAM DECREE ON SEA SURVEILLANCE
(Innocent passage; territorial waters; contiguous zone)*

Republic of Viet Nam

Ministry of Foreign Affairs

C O M M U N I Q U E

Due to the fact of a constant and increasing infiltration by sea into the Republic of Viet Nam of Viet Cong personnel, arms, ammunition and various war supplies,

the Prime Minister has signed Decree No 81 /NC of the 27th of April 1965, by which the following measures have been decided upon to ensure the security and the defence of the territorial waters of Viet-Nam :

I.- The territorial waters up to the three mile limit is declared a defensive sea area. The passage of vessels through the territorial sea of the Republic of Viet Nam which is prejudicial to the peace, good order or security of the Republic of Viet Nam is not considered as innocent passage and is forbidden by the law of the Republic of Viet Nam. Ships of any country operating within the territorial sea of the Republic of Viet Nam which are not clearly engaged in innocent passage are subject to visit and search, and may be subject to arrest and disposition, as provided by the law of the Republic of Viet Nam in conformity with accepted principles of international law.

Cargoes will be considered suspect unless it can be clearly established that they are destined for a port outside the Republic of Viet Nam or a legitimate recipient in the Republic of Viet Nam. Cargoes will be considered particularly suspect if containing any of the items listed below.

1-) Weapons, ammunition, electrical and communications equipment.

2-) Primer, mine, gunpowder and other explosives.

3-) Chemical products which can serve military purposes (such as ammonia nitrate, sodium nitrate, potassium nitrate, calcium nitrate, potassium chlorate, ammonia chlorate, potassium perchlorate, potash perchlorate, soda perchlorate, sodium perchlorate, diphenylamine, contialite, ether, nitro cellulose, nitro glycerin, magnesium, aluminum powder, barium chloride, mercury fulminate, benzene, chlorine, calcium carbide, acetylene, liquid and compressed oxygen, sulphur, acetone, nitric acid, sulphuric acid, hydrochloric acid).

4-) Medical supplies of Communist North Vietnam, Communist China or Soviet Bloc origin.

5-) Foodstuffs of Communist North Vietnam, Communist China or Soviet Bloc origin.

II.- The passage of vessels through the water contiguous to the territorial sea of the Republic of Vietnam up to twelve nautical miles from the baseline from which the breadth of the territorial sea is measured are subject to the control of the Republic of Viet Nam to the extent necessary to prevent or punish infringements of the customs, fiscal, immigration and sanitary regulations effective within the territory or territorial sea of the Republic of Viet Nam. Entry of materials and merchandises into the Republic of Viet Nam other than through recognized routes or ports of entry is forbidden by customs regulations of the Republic of Viet Nam.

Entry into the Republic of Vietnam of persons other than through recognized routes or ports of entry is forbidden by immigration regulations of the Republic of Vietnam. The Government of the Republic of Vietnam intends to enforce strictly these customs, fiscal and immigration regulations.

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*[Reproduced from a communiqué of the Ministry of Foreign Affairs of the Republic of Viet-Nam issued April 27, 1965, provided by the Embassy of Viet-Nam.]

Accordingly, vessels within the contiguous zone suspected of preparing to aid in infringements of the customs, fiscal or immigration regulations of the Republic of Vietnam are subject to visit and search, and may be subject to arrest and disposition, as provided by the law of the Republic of Vietnam in conformity with accepted principles of international law.

III/- It is the intention of the Republic of Vietnam to act beyond the 12 mile contiguous zone to prevent or punish any infringement of the laws of the Republic of Vietnam by vessels flying the flag of the Republic of Vietnam or reasonably believed to be South Vietnamese, though flying a foreign flag or refusing to show a flag; the action taken against such ships may include stopping, visiting, and searching. If the reasonable suspicions as to Vietnamese nationality prove unfounded and the vessel has not committed any act justifying these suspicions, the vessel will be permitted to continue with prompt and reasonable compensation paid by the Government of Vietnam for any loss or damage which may have been sustained.

IV/- Vessels which are within the territory, the territorial sea or the contiguous zone of the Republic of Vietnam and which are suspected of infringing the above regulations within the territory or territorial sea of the Republic of Vietnam are subject to hot pursuit on the high seas as provided for in international law.

V/- The Government of the Republic of Vietnam has requested and obtained the assistance of the Government of the U.S.A. for the full cooperation of the U.S. Navy with the Naval Forces of the Republic of Vietnam to enforce the new security and defense measures as ordered by the Prime Minister of the Republic of Vietnam.

Statement by British Secretary of State for Defense, Mr. John Nott, to the House of Commons, April 7, 1982, announcing the establishment of a maritime exclusion zone around the Falkland Islands*

* K.S. Morgan ed., The Falklands Campaign: A Digest of Debates in the House of Commons 2 April to June 1982, at 66, (1982).

The Secretary of State for Defence (Mr. John Nott): On Friday 2 April, Argentina seized the Falkland Islands by force of arms, in flagrant disregard of international law and, subsequently, of resolution 502 of the Security Council. Her Majesty's Government have made it absolutely clear that we do not, and will not, accept this position. The Falkland Islands are sovereign British territory. The Falkland Islanders wish to remain under British administration.

We are now deploying to the South Atlantic a powerful task group and other naval units capable of a range of operations. Should it become necessary, we shall use force to achieve our objective. We hope that it will not come to that. We hope that diplomacy will succeed. Nevertheless, the Argentines were the first to use force of arms in order to establish their present control of the Falklands. The islands are now subject to an illegal and alien military rule. That is a position which must not endure for one day longer than is necessary.

Our first naval action will therefore be intended to deny the Argentine forces on the Falklands the means of reinforcement and re-supply from the mainland. To this end, I must tell the House that through appropriate channels the following notice is being promulgated to all shipping forthwith:

> "From 0400 Greenwich Mean Time on Monday 12 April 1982, a maritime exclusion zone will be established around the Falkland Islands. The outer limit of this zone is a circle of 200 nautical mile radius from latitude 51 degrees 40 minutes South, 59 degrees 30 minutes West, which is approximately the centre of the Falkland Islands. From the time indicated, any Argentine warships and Argentine naval auxiliaries found within this zone will be treated as hostile and are liable to be attacked by British forces. This measure is without prejudice to the right of the United Kingdom to take whatever additional measures may be needed in exercise of its right of self-defence, under article 51 of the United Nations Charter." . . .

Let me make it clear to the House that the illegal occupation of the Falkland Islands and their dependencies by the Argentine armed forces in no way affects the fact of British sovereignty over all these territories.

Statement by British Secretary of State for Defense, Mr. John Nott, to the House of Commons, April 28, 1982, announcing a total exclusion zone around the Falkland Islands*

* K.S. Morgan ed., The Falklands Campaign: A Digest of Debates in the House of Commons 2 April to June 1982, at 142, (1982).

Report Fourteen

28 APRIL 1982

On Wednesday 28 April, Mr. Nott gave written answers to questions. One included the announcement of a total exclusion zone.

Mr. Nott: The following statement was issued by the Government earlier today:

"From 1100 GMT on 30th April 1982, a Total Exclusion Zone will be established around the Falkland Islands. The outer limits of this Zone is the same as for the Maritime Exclusion Zone established on Monday 12th April 1982, namely a circle of 200 nautical miles radius from latitude 51 degrees 40 minutes South, 59 degrees 30 minutes West. From the time indicated, the Exclusion Zone will apply not only to Argentine warships and Argentine naval auxiliaries but also to any other ship, whether naval or merchant vessel, which is operating in support of the illegal occupation of the Falkland Islands by Argentine forces. The Exclusion Zone will also apply to any aircraft, whether military or civil, which is operating in support of the illegal occupation. Any ship and any aircraft whether military or civil which is found within this Zone without due authority from the Ministry of Defence in London will be regarded as operating in support of the illegal occupation and will therefore be regarded as hostile and will be liable to be attacked by British Forces.

Also from the time indicated, Port Stanley airport will be closed; and any aircraft on the ground in the Falkland Islands will be regarded as present in support of the illegal occupation and accordingly is liable to attack.

These measures are without prejudice to the right of the UK to take whatever additional measures may be needed in exercise of its right of self-defence, under Article 51 of the UN Charter."

2. Air Defense Identification Zones

United States Security Control of Air Traffic Regulations, 1985*

* 14 C.F.R. §99.1 (1985).

PART 99—SECURITY CONTROL OF AIR TRAFFIC

Subpart A—General

Subpart B—Designated Air Defense Identification Zones

AUTHORITY: Secs. 307, 313(a), 402, 601, 602, 902, 1110, and 1202, 72 Stat. 749; 49 U.S.C. 1348, 1354(a), 1372, 1421, 1442, 1443, 1472, 1510, and 1522, unless otherwise noted.

Subpart A—General

SOURCE: Docket No. 1580, Amdt. 1-1, 28 FR 6720, June 29, 1963; 28 FR 7159, July 12, 1963, unless otherwise noted.

§ 99.1 Applicability.

(a) This subject prescribes rules for operating civil aircraft in a defense area, or into, within, or out of the United States through an Air Defense Identification Zone (ADIZ), designated in Subpart B.

(b) Except for § 99.7, this subpart does not apply to the operation of an aircraft—

(1) In a Coastal or Domestic ADIZ north of 30 degrees north latitude or west of 86 degrees west longitude at a true airspeed of less than 180 knots;

(2) In the Alaskan DEWIZ at a true air speed of less than 180 knots while the pilot maintains a continuous listening watch on the appropriate frequency;

(3) From any point in the 48 contiguous States on an outbound track through the Southern Border ADIZ that does not penetrate a Coastal ADIZ;

(4) Within the 48 contiguous States and the District of Columbia, or within the State of Alaska, which remains within 10 nautical miles of the point of departure; or

(5) Over any island, or within three nautical miles of the coastline of any island, in the Hawaiian ADIZ.

(c) Except as provided in § 99.7, the radio and position reporting requirements of this subpart do not apply to the operation of an aircraft within the 48 contiguous States and the District of Columbia, or within the State of Alaska, if that aircraft does not have two-way radio and is operated in accordance with a filed DVFR flight plan containing the time and point of Domestic or Coastal ADIZ penetration and that aircraft departs within five minutes of the estimated departure time contained in the flight plan.

(d) An FAA ATC center may exempt the following operations from this subpart (except § 99.7), on a local basis only, with the concurrence of the military commanders concerned:

(1) Aircraft operations that are conducted wholly within the boundaries of an ADIZ and are not currently significant to the air defense system.

(2) Aircraft operations conducted in accordance with special procedures

prescribed by the military authorities concerned.

(Secs. 307, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1510, and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

[Amdt. 1-1, 28 FR 6720, June 29, 1963, as amended by Amdt. 99-12, 47 FR 12325, Mar. 22, 1982]

§ 99.3 General.

(a) Air defense identification zones (ADIZ's) are areas of airspace over land or water in which the ready identification, location, and control of civil aircraft is required in the interest of national security. They are classified as—

(1) Coastal air defense identification zones (Coastal ADIZ's);

(2) Domestic air defense identification zones (Domestic ADIZ's); and

(3) Distant early warning identification zones (DEWIZ's).

(b) Unless designated as an ADIZ, a Defense Area is any airspace of the United States in which the control of aircraft is required for reasons of national security.

(c) For the purposes of this part, a Defense Visual Flight Rules (DVFR) flight is a flight within an ADIZ conducted under the visual flight rules in Part 91.

(Doc. No. 1580, Amdt. 1-1, 28 FR 6720, June 29, 1963, as amended by Amdt. 99-5, 30 FR 9359, July 28, 1965]

§ 99.5 Emergency situations.

In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from the rules in this part to the extent required by that emergency. He shall report the reasons for the deviation to the communications facility where flight plans or position reports are normally filed (referred to in this part as "an appropriate aeronautical facility") as soon as possible.

§ 99.7 Special security instructions.

Each person operating an aircraft in an ADIZ or Defense Area shall, in addition to the applicable operating rules of this part, comply with special security instructions issued by the Administrator in the interest of national security and that are consistent with appropriate agreements between the FAA and the Department of Defense.

[Amdt. 99-5, 30 FR 9359, July 28, 1965]

§ 99.9 Radio requirements.

No person may operate an aircraft in an ADIZ unless the aircraft has a functioning two-way radio.

§ 99.11 Flight plan requirements: Coastal or Domestic ADIZ.

(a) No person may operate an aircraft in or penetrating a Coastal or Domestic ADIZ unless he has filed a flight plan with an appropriate aeronautical facility.

(b) All flight plans must specify transponder capability and, unless ATC authorizes an abbreviated flight plan,—

(1) A flight plan for IFR flight must contain the information specified in § 91.83 of this chapter; and

(2) A flight plan for VFR flight must contain the information specified in § 91.83(a) (1) through (7) of this chapter.

(c) The pilot shall designate a flight plan for VFR flight as a DVFR flight plan.

(Secs. 307, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1510, and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

[Doc. No. 1580, Amdt. 1-1, 28 FR 6720, June 29, 1963; 28 FR 7159, July 12, 1963, as amended by Amdt. 99-12, 47 FR 12325, Mar. 22, 1982]

§ 99.13 Flight plan requirements: DEWIZ.

(a) No person may operate an aircraft in or penetrating a DEWIZ unless he has filed a flight plan before takeoff with an appropriate aeronautical facility. If there is no facility for filing a DVFR flight plan, the pilot must comply with § 99.25(a)(2) and proceed according to the instructions issued by the appropriate aeronautical facility. These instructions normally require the flight to proceed to a specific area for visual identification or to land at a stated location.

(b) Unless ATC authorizes an abbreviated flight plan—

(1) A flight plan for IFR flight must contain the information specified in

§ 91.83 of this chapter and the estimated time and point of DEWIZ penetration (ETDP); and

(2) A flight plan for VFR flight must contain the information on § 91.83(a)(1) through (7) of this chapter and the estimated time and point of DEWIZ penetration (ETDP).

(c) The pilot shall designate a flight plan for VFR flight as a DVFR flight plan.

§ 99.15 Arrival or completion notice.

The pilot in command of an aircraft for which a flight plan has been filed shall file an arrival or completion notice with an appropriate aeronautical facility, unless the flight plan states that no notice will be filed.

§ 99.17 Position reports; aircraft operating in or penetrating a Domestic ADIZ; IFR.

The pilot of an aircraft operating in or penetrating a Domestic ADIZ under IFR—

(a) In controlled airspace, shall make the position reports required in § 91.125 of this chapter; and

(b) In uncontrolled airspace, shall make the position reports required in § 99.19.

§ 99.19 Position reports; aircraft operating in or penetrating a Domestic ADIZ; DVFR.

No pilot may penetrate a Domestic ADIZ under DVFR unless—

(a) He reports to an appropriate aeronautical facility before penetration: The time, position, and altitude at which the aircraft passed the last reporting point before penetration and the estimated time of arrival over the next appropriate reporting point along the flight route;

(b) If there is no appropriate reporting point along the flight route, he reports at least 15 minutes before penetration: The estimated time, position, and altitude at which he will penetrate; or

(c) If the airport of departure is so close to the Domestic ADIZ boundary that it prevents his complying with paragraph (a) or (b) of this section, he has reported immediately after taking off: The time of departure, altitude, and estimated time of arrival over the first reporting point along the flight route.

§ 99.21 Position reports; aircraft entering the United States through a Coastal ADIZ; United States aircraft.

The pilot of an aircraft entering the United States through a Coastal ADIZ shall make the reports required in § 99.17 or § 99.19 to an appropriate aeronautical facility.

§ 99.23 Position reports; aircraft entering the United States through a Coastal ADIZ; foreign aircraft.

In addition to such other reports as ATC may require, no pilot in command of a foreign civil aircraft may enter the United States through a Coastal ADIZ unless he makes the reports required in § 99.17 or § 99.19 or reports the position of the aircraft when it is not less than one hour and not more than two hours average direct cruising distance from the United States.

§ 99.25 Position reports; aircraft entering the United States through a DEWIZ.

(a) The pilot of an aircraft entering the United States through a DEWIZ—

(1) If under IFR, shall report his position as required by § 91.125 of this chapter; or

(2) If under DVFR, shall report when within radio range of an appropriate aeronautical facility but before penetration: The time, altitude, and position at which he passed the last reporting point and the estimated time, altitude, and point of penetration.

(b) If requested, the pilot of an aircraft entering the United States through a DEWIZ shall advise an appropriate aeronautical facility of the difference between the actual time and point of penetration and the same data recorded in the original ground filed flight plan.

§ 99.27 Deviation from flight plans and ATC clearances and instructions.

(a) No pilot may deviate from the provisions of an ATC clearance or ATC instruction except in accordance with § 91.75 of this chapter.

(b) No pilot may deviate from his filed IFR flight plan when operating an aircraft in uncontrolled airspace unless he notifies an appropriate aeronautical facility before deviating.

(c) No pilot may deviate from his filed DVFR flight plan unless he notifies an appropriate aeronautical facility before deviating.

§ 99.29 Radio failure; DVFR.

If the pilot operating an aircraft under DVFR in an ADIZ cannot maintain two-way radio communications, he may proceed in accordance with his original DVFR flight plan or land as soon as practicable. The pilot shall report the radio failure to an appropriate aeronautical facility as soon as possible.

§ 99.31 Radio failure; IFR.

If a pilot operating an aircraft under IFR in an ADIZ cannot maintain two-way radio communications, he shall proceed in accordance with § 91.127 of this chapter.

Subpart B—Designated Air Defense Identification Zones

§ 99.41 General.

The airspace above the areas described in this subpart is established as a Domestic ADIZ, Coastal ADIZ, DEWIZ, or Defense Area. The lines between points described in this subpart are great circles except that the lines joining adjacent points on the same parallel of latitude are rhumb lines.

[Doc. No. 1580, Amdt. 1-1, 28 FR 6721, June 29, 1963]

§ 99.43 Domestic ADIZ's.

(a) *Alaskan domestic ADIZ.*

The area bounded by a line 69°50′ N., 141°00′ W.; 71°18′ N., 156°44′ W.; 68°53′ N., 166°16′ W.; 63°17′ N., 168°42′ W.; 58°39′ N., 162°03′ W., 54°00′ N., 169°00′ W.; 52°00′ N., 169°00′ W.; 56°34′ N., 154°10′ W.; 59°28′ N., 146°18′ W.; 59°30′ N., 139°30′ W.; 60°20′ N., 139°30′ W.; westerly along the International Boundary line to 60°18′ N., 141°00′ W.; 69°50′ N., 141°00′ W. (point of beginning.)

(b) *Southern border domestic ADIZ.*

A line extending from 32°16′ N., 117°15′ W.; 32°30′ N., 117°20′ W.; 32°32′03″ N., 117°07′25″ W.; eastward along the United States-Mexican Border to 25°58′ N., 97°07′ W.; 26°00′ N., 97°00′ W.; then along the 26 degree parallel to 26°00′ N., 96°35′ W.

[Doc. No. 774, 26 FR 9709, Oct. 14, 1961. Redesignated by No. 1580, Amdt. 1-1, 28 FR 6721 June 29, 1963, and amended by Amdt. 99-1, 29 FR 7147, June 2, 1964; Amdt. 99-11, 46 FR 46570, Sept. 21, 1981]

§ 99.45 Coastal ADIZ's.

(a) *Atlantic Coastal ADIZ.*

The area bounded by a line 43°00′ N., 65°48′ W.; 39°30′ N., 63°45′ W.; 30°45′ N., 74°00′ W.; 27°30′ N., 78°50′ W.; 25°40′ N., 79°25′ W.; 24°00′ N., 79°25′ W.; 24°00′ N., 80°00′ W.; 24°49′ N., 80°00′ W.; 27°59′ N., 79°23′ W.; 30°05′ N., 81°07′ W.; 30°50′ N., 80°54′ W.; 32°01′ N., 80°32′ W.; 35°10′ N., 75°10′ W.; 36°10′ N., 75°10′ W.; 37°00′ N., 75°30′ W.; 39°30′ N., 73°45′ W.; 39°36′30″ N., 73°40′30″ W.; 39°38′ N., 73°00′ W.; 39°55′ N., 73°00′ W.; 40°32′ N., 72°15′ W., 41°15′ N., 69°30′ W.; 43°00′ N., 65°48′ W. (point of beginning).

(b) *Guam Coastal ADIZ.*

The area bounded by a circle with a radius of 200 nautical miles centered at latitude 13°32′41″ N., longitude 144°50′30″ E.

(c) *Gulf of Mexico Coastal ADIZ.*

The area bounded by a line 24°00′ N., 97°00′ W.; 26°00′ N., 96°35′ W.; 26°25′ N., 96°30′ W.; 28°05′ N., 96°30′ W.; 28°42′ N., 95°17′ W.; 29°26′ N., 94°00′ W.; 28°48′ N., 90°00′ W.; 30°00′ N., 88°55′ W.; 30°00′ N., 86°00′ W.; 29°20′ N., 85°00′ W.; 28°55′ N., 83°30′ W.; 25°45′ N., 82°07′ W.; 25°45′ N., 81°27′ W.; then southeast along a line 3 nautical miles from the shore line to 25°10′ N., 81°12′ W.; 24°49′ N., 80°55′ W.; 24°49′ N., 80°00′ W.; 24°00′ N., 80°00′ W.; 24°00′ N., 83°00′ W.; 27°30′ N., 84°30′ W.; 27°30′ N., 93°25′ W.; 27°00′ N., 95°00′ W.; 24°00′ N., 95°30′ W.; 24°00′ N., 97°00′ W. (point of beginning).

(d) *Hawaiian Coastal ADIZ*—(1) *Outer boundary.*

The area included in the irregular octagonal figure formed by a line connecting 26°30′ N., 156°00′ W.; 26°30′ N., 161°00′ W.; 24°00′ N., 164°00′ W.; 20°00′ N., 164°00′ W.; 17°00′ N., 160°00′ W.; 17°00′ N., 156°00′ W.; 20°00′ N., 153°00′ W.; 22°00′ N., 153°00′ W.; 26°30′ N., 156°00′ W. (point of beginning).

(2) *Inner boundary.*

The inner boundary to follow a line connecting 22°30′ N., 157°00′ W.; 22°30′ N., 160°00′ W.; 22°00′ N., 161°00′ W.; 21°00′ N., 161°00′ W.; 20°00′ N., 160°00′ W.; 20°00′ N.,

156°30' W.; 21°00' N., 155°30' W.; 22°30' N., 157°00' W. (point of beginning)

(e) *Pacific Coastal ADIZ.*

The area bounded by a line 48°29'38" N., 124°43'35" W.; 48°00' N., 125°15' W.; 46°15' N., 124°30' W.; 43°00' N., 124°40' W.; 40°00' N., 124°35' W.; 38°50' N., 124°00' W.; 34°50' N., 121°10' W.; 34°00' N., 120°30' W.; 32°16' N., 118°25' W.; 32°16' N., 117°15' W.; along a line parallel to and approximately 12 nautical miles from the Mexican Coast to 29°00' N., 114°51' W.; 28°00' N., 123°10' W.; 37°42' N., 130°40' W.; 48°20' N., 132°00' W.; 48°20' N., 128°00' W.; 48°30' N., 125°00' W.; 48°29'38" N., 124°43'35" W (point of beginning).

(E.O. 10854, sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

[Doc. No. 774, 26 FR 9709, Oct. 14, 1961, as amended by Amdt. 630-1, 27 FR 10750, Nov. 3, 1962. Redesignated by Doc. No. 1580, Amdt. 1-1, 28 FR 6721, June 29, 1963; Amdt. 99-7, 33 FR 7881, May 30, 1968; Amdt. 99-8, 34 FR 923, Jan. 22, 1969; Amdt. 99-9, 35 FR 4292, Mar. 10, 1970; Amdt. 99-10, 41 FR 10419, Mar. 11, 1976]

§ 99.47 Alaskan DEWIZ.

The area bounded by a line connecting 73°00' N., 141°00' W.; 69°50' N., 141°00' W.; 71°18' N., 156°44' W.; 68°53' N., 166°16' W.; 63°17' N., 168°42' W.; 58°39' N., 162°03' W.; 54°00' N., 169°00' W.; 52°00' N., 169°00' W.; 56°34' N., 154°10' W.; 59°28' N., 146°18' W.; 59°30' N., 139°30' W.; 57°52' N., 141°46' W.; 50°00' N., 157°00' W.; 50°00' N., 180°00'; 60°00' N., 180°00'; 65°00' N., 169°00' W.; 73°00' N., 169°00' W.; 73°00' N., 141°00' W (point of beginning).

[Amdt. 99-4, 30 FR 6242, May 5, 1965, as amended by Amdt. 99-6, 31 FR 13942, Nov. 1, 1966]

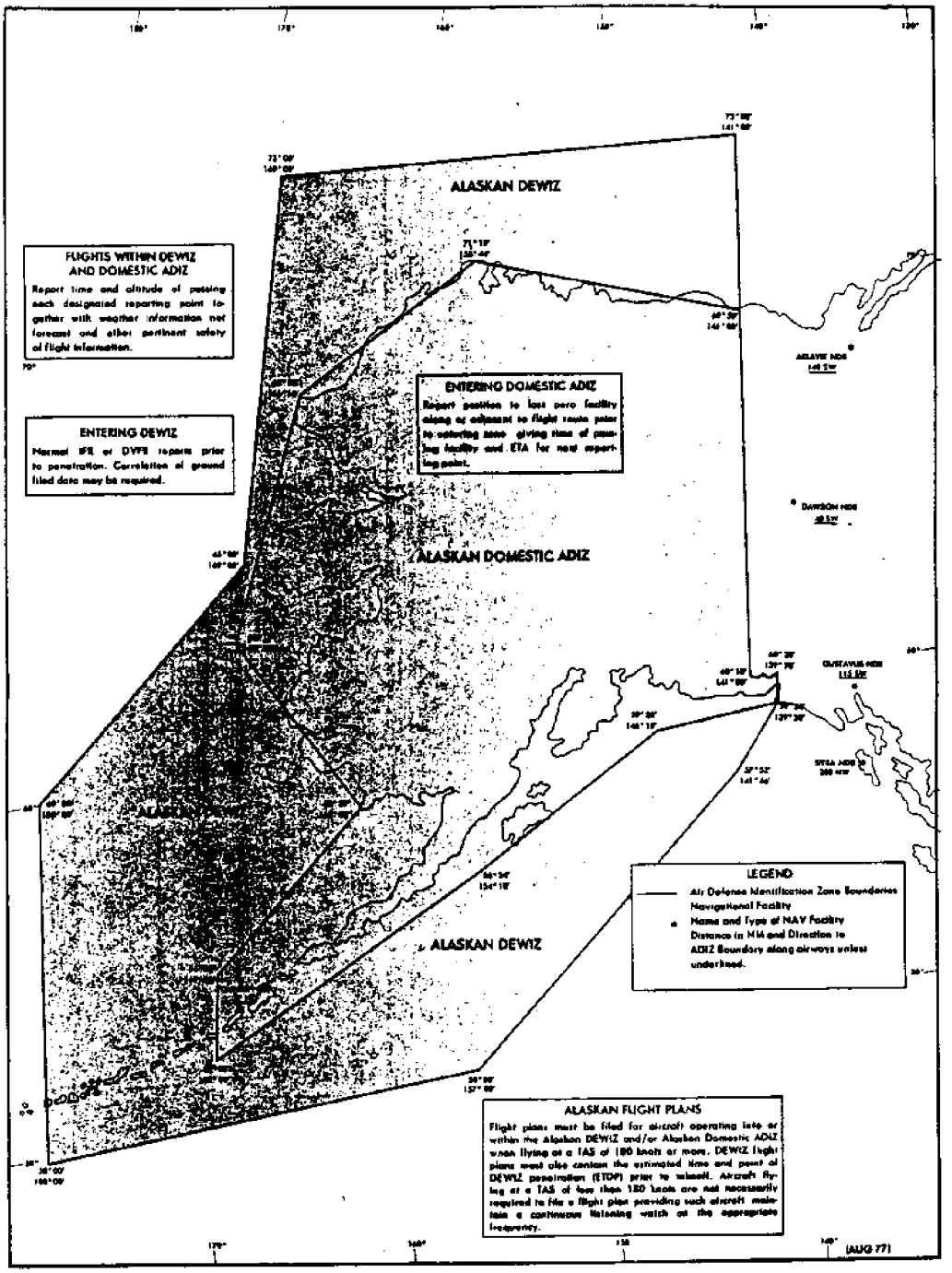
§ 99.49 Defense area.

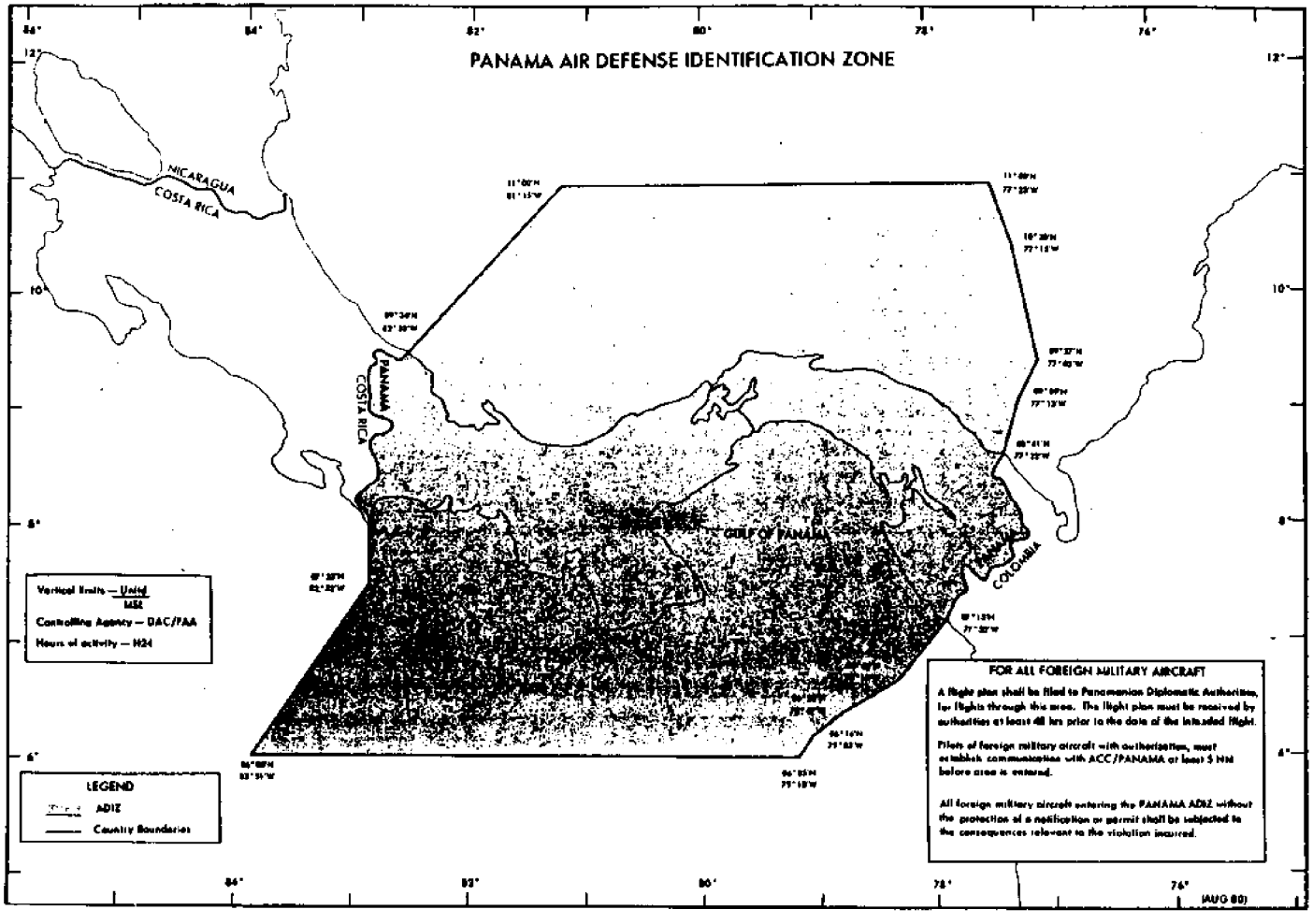
All airspace of the United States is designated as Defense Area except that airspace already designated as Air Defense Identification Zones.

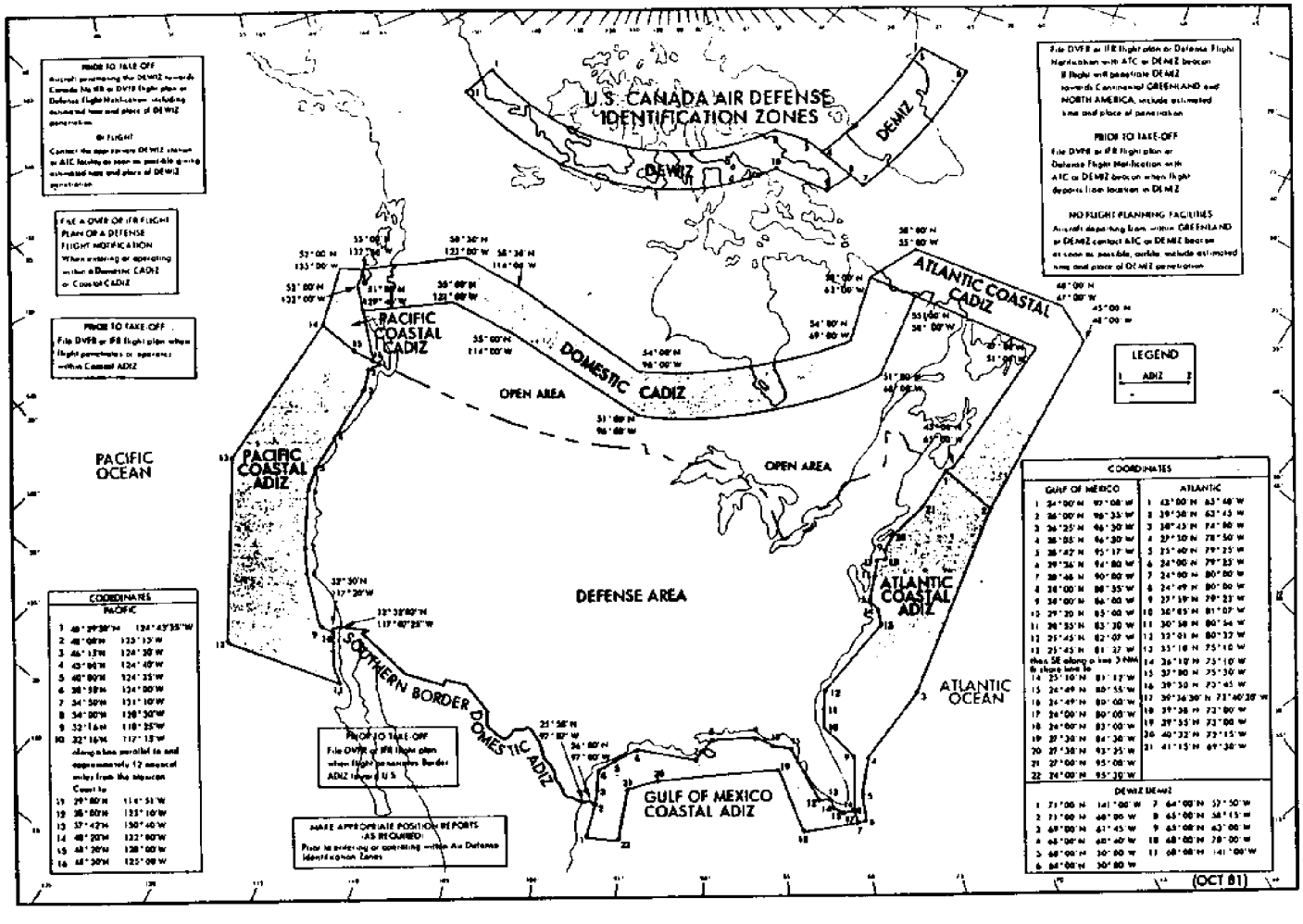
[Doc. No. 1580, Amdt. 1-1, 28 FR 6721, June 29, 1963]

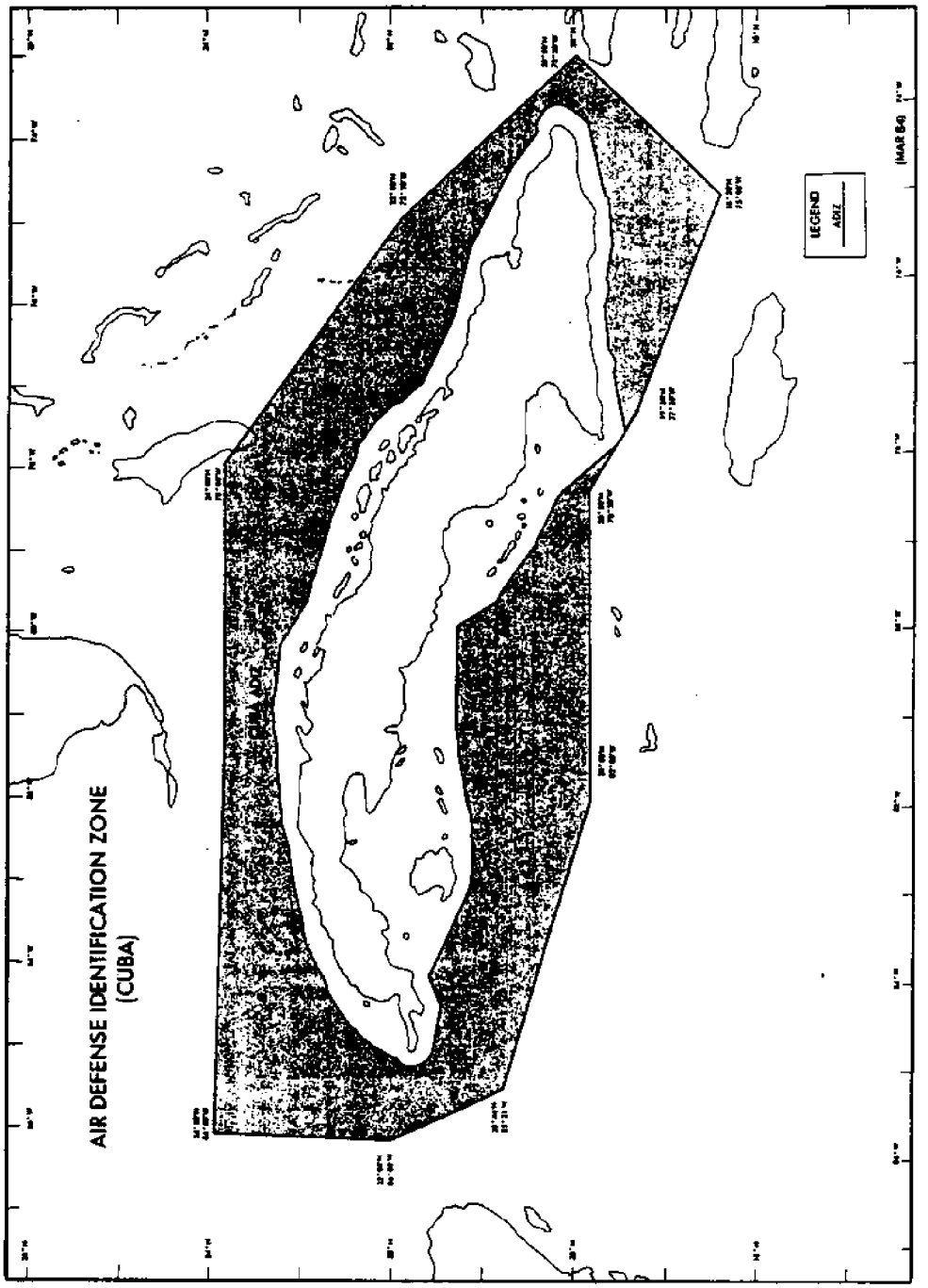
International Air Defense Identification Zones, 1985*

* U.S. Dept. of Defense Flight Information Publications AP/1, AP/2 and AP/3, 1985.


ALASKAN DEWIZ
ALASKAN DOMESTIC ADIZ
ALASKAN DEWIZ
FLIGHTS WITHIN DEWIZ AND DOMESTIC ADIZ
Report time and altitude of passing each designated reporting point together with weather information not forecast and other pertinent safety of flight information.
ENTERING DEWIZ
Normal IFR or DVFR reports prior to penetration. Correlation of ground filed data may be required.
ENTERING DOMESTIC ADIZ
Report position to last aero facility along or adjacent to flight route prior to entering zone giving time of passing facility and ETA for next reporting point.
LEGEND
Air Defense Identification Zone Boundaries
Navigational Facility
Name and Type of NAV Facility
Distance in NM and Direction to ADIZ Boundary along airways unless underlined.
ALASKAN FLIGHT PLANS
Flight plans must be filed for aircraft operating into or within the Alaskan DEWIZ and/or Alaskan Domestic ADIZ when flying at a TAS of 180 knots or more. DEWIZ flight plans must also contain the estimated time and point of DEWIZ penetration (ETDP) prior to takeoff. Aircraft flying at a TAS of less than 180 knots are not necessarily required to file a flight plan providing such aircraft maintain a continuous listening watch on the appropriate frequency.
(AUG 77)

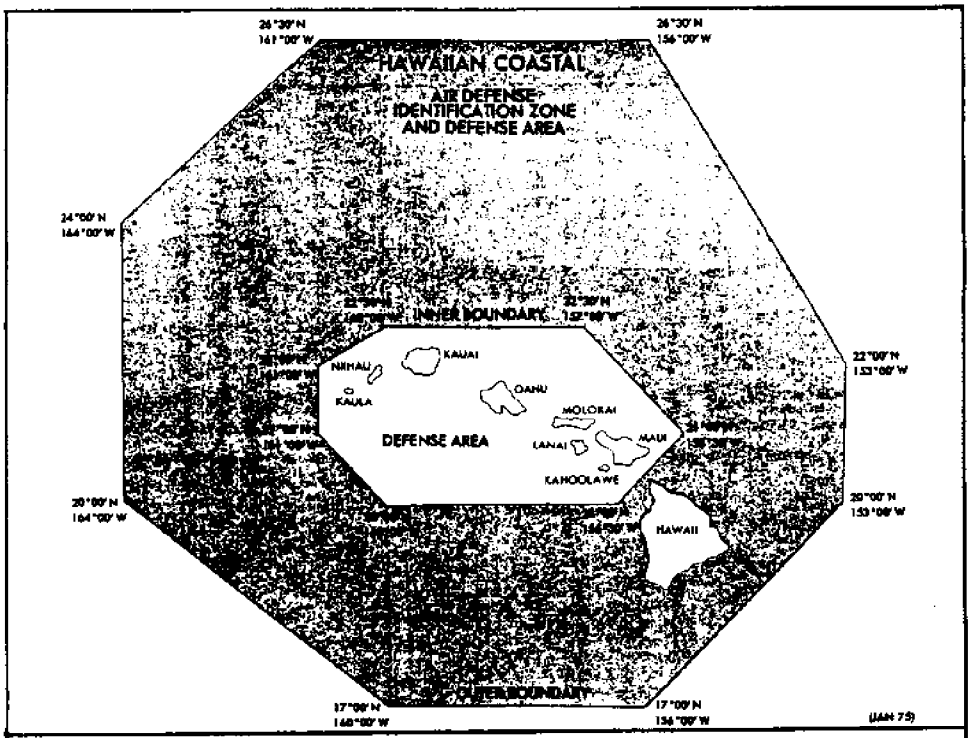

PANAMA AIR DEFENSE IDENTIFICATION ZONE
NICARAGUA
COSTA RICA
PANAMA
COSTA RICA
GULF OF PANAMA
COLOMBIA
Vertical limits — Unltd / MSL
Controlling Agency — DAC/PAA
Hours of activity — H24
LEGEND
ADIZ
Country Boundaries
FOR ALL FOREIGN MILITARY AIRCRAFT
A flight plan shall be filed to Panamanian Diplomatic Authorities, for flights through this area. The flight plan must be received by authorities at least 48 hrs prior to the date of the intended flight.
Pilots of foreign military aircraft with authorization, must establish communication with ACC/PANAMA at least 5 NM before area is entered.
All foreign military aircraft entering the PANAMA ADIZ without the protection of a notification or permit shall be subjected to the consequences relevant to the violation incurred.
(AUG 80)

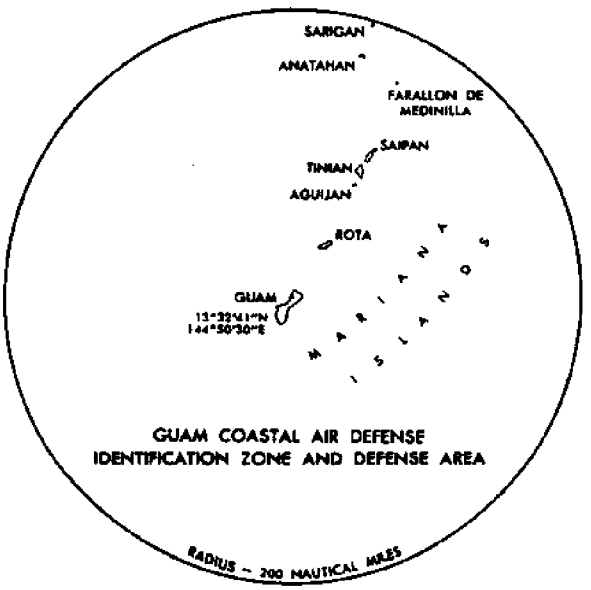

U.S. CANADA AIR DEFENSE IDENTIFICATION ZONES
DEWIZ
DEWIZ
PACIFIC COASTAL CADIZ
DOMESTIC CADIZ
ATLANTIC COASTAL CADIZ
OPEN AREA
OPEN AREA
PACIFIC OCEAN
PACIFIC COASTAL ADIZ
DEFENSE AREA
ATLANTIC COASTAL ADIZ
ATLANTIC OCEAN
SOUTHERN BORDER DOMESTIC ADIZ
GULF OF MEXICO COASTAL ADIZ
PRIOR TO TAKE-OFF
File DVFR or IFR flight plan when flight penetrates Border ADIZ limits of U.S.
MAKE APPROPRIATE POSITION REPORTS AS REQUIRED
Prior to entering or operating within Air Defense Identification Zones
FILE A DVFR OR IFR FLIGHT PLAN OR A DEFENSE FLIGHT NOTIFICATION
When entering or operating within a Domestic CADIZ or Coastal CADIZ
PRIOR TO TAKE OFF
File DVFR or IFR flight plan when flight penetrates or operates within Coastal ADIZ
PRIOR TO TAKE-OFF
File DVFR or IFR flight plan or Defense Flight Notification with ATC or DEWIZ beacon
If flight will penetrate DEWIZ
NO FLIGHT PLANNING FACILITIES
LEGEND
COORDINATES
PACIFIC
GULF OF MEXICO
ATLANTIC
DEWIZ DEWIZ
(OCT 81)

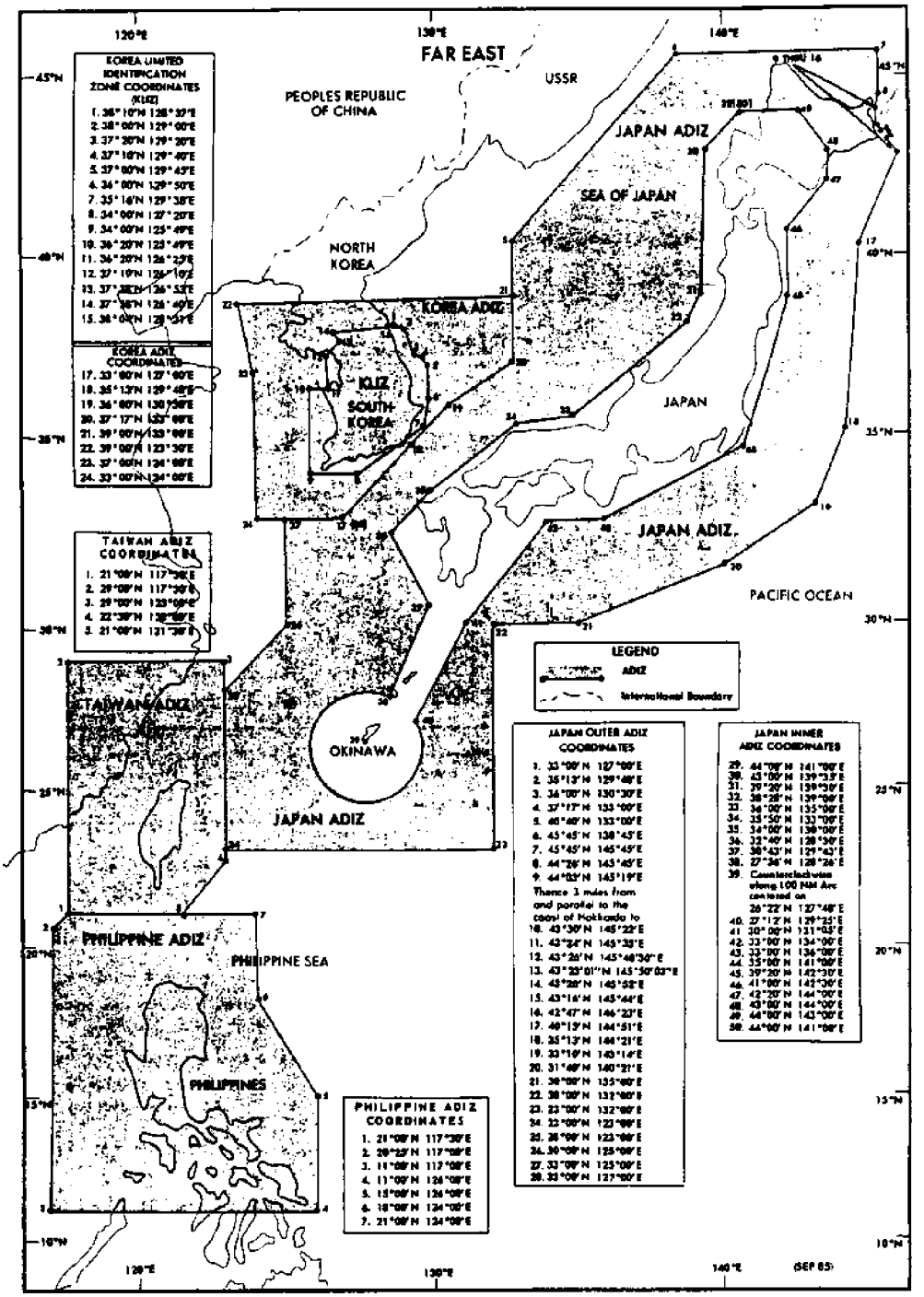

AIR DEFENSE IDENTIFICATION ZONE
(CUBA)
LEGEND
ADIZ

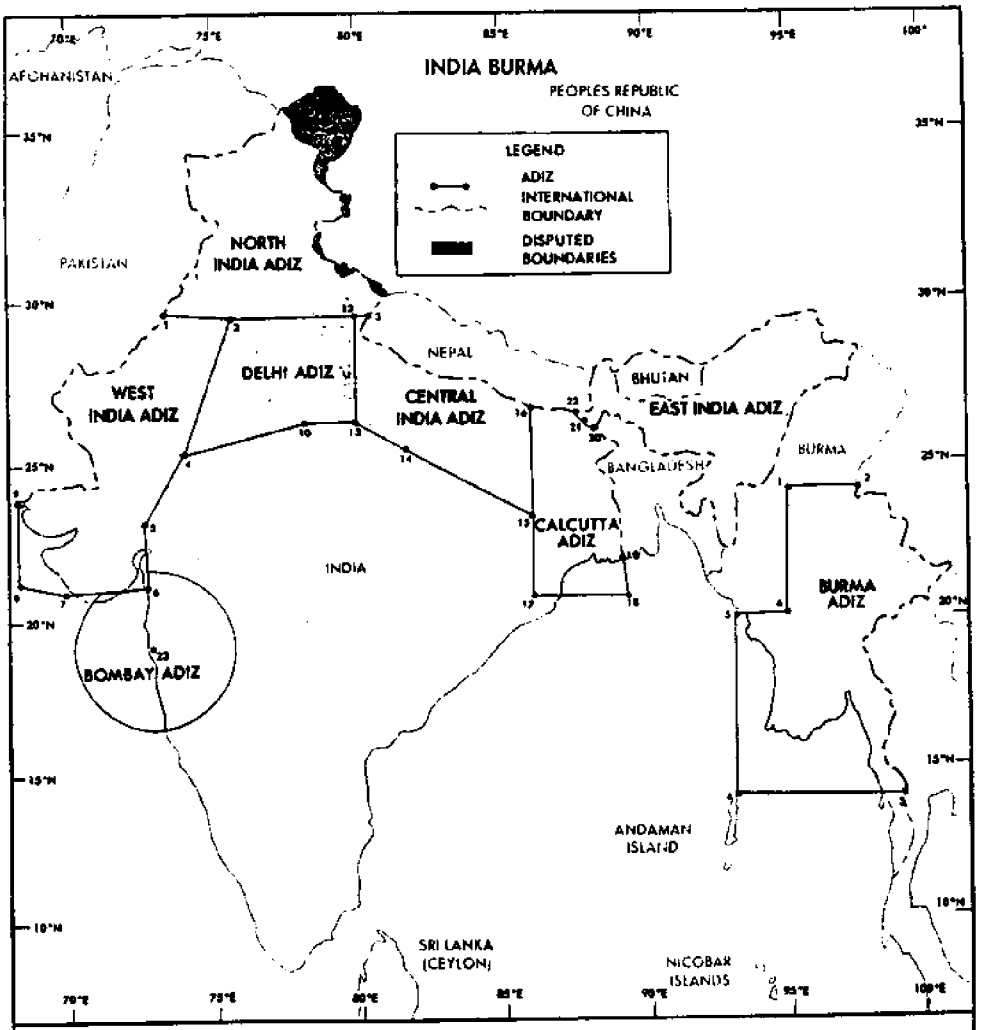
Chapter 8

AIR DEFENSE IDENTIFICATION ZONES



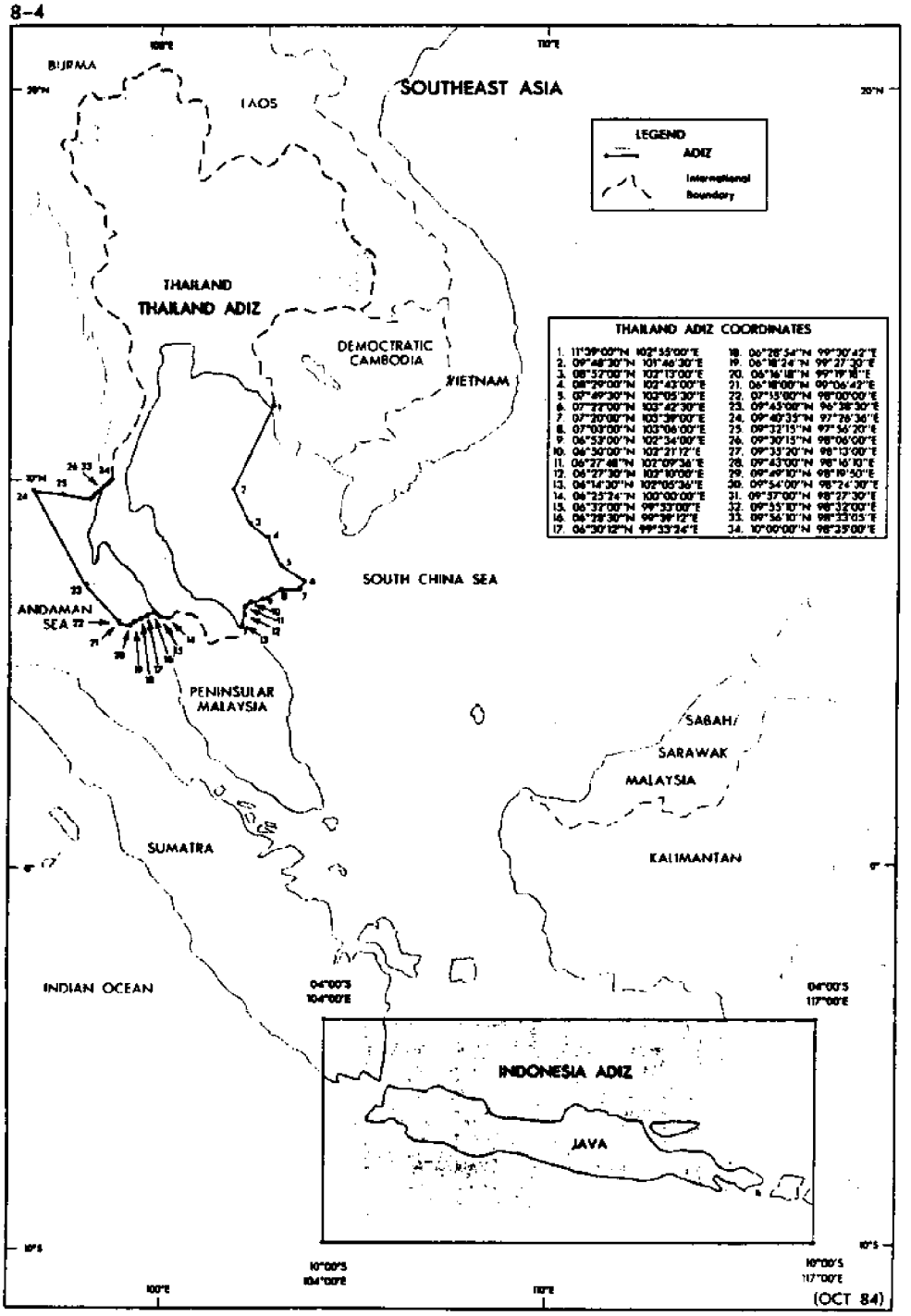


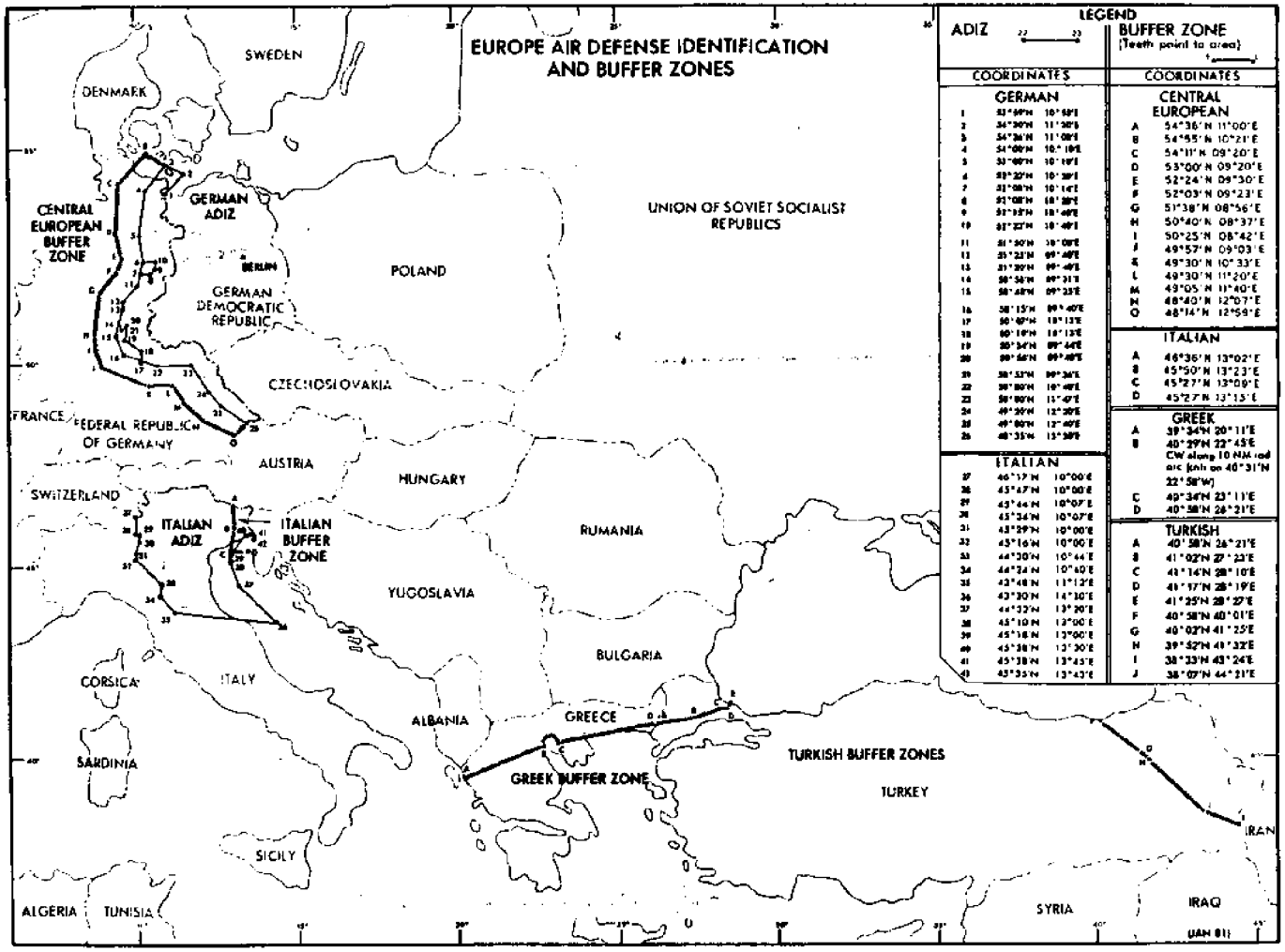

FAR EAST
USSR
PEOPLES REPUBLIC OF CHINA
NORTH KOREA
SEA OF JAPAN
JAPAN ADIZ
KOREA ADIZ
KLIZ
SOUTH KOREA
JAPAN
JAPAN ADIZ
PACIFIC OCEAN
TAIWAN ADIZ
OKINAWA
JAPAN ADIZ
PHILIPPINE ADIZ
PHILIPPINE SEA
PHILIPPINES
KOREA LIMITED IDENTIFICATION ZONE COORDINATES (KLIZ)
1. 36° 10'N 128° 32'E
2. 38° 00'N 129° 00'E
3. 37° 20'N 129° 20'E
4. 37° 10'N 129° 40'E
5. 37° 00'N 129° 45'E
6. 36° 00'N 129° 50'E
7. 35° 16'N 129° 38'E
8. 34° 00'N 127° 20'E
9. 34° 00'N 125° 49'E
10. 36° 20'N 125° 49'E
11. 36° 20'N 126° 22'E
12. 37° 19'N 126° 10'E
13. 37° 38'N 126° 53'E
14. 37° 38'N 126° 40'E
15. 36° 04'N 126° 51'E
KOREA ADIZ COORDINATES
17. 33° 00'N 127° 00'E
18. 35° 13'N 129° 48'E
19. 36° 00'N 130° 30'E
20. 37° 17'N 133° 00'E
21. 39° 00'N 133° 00'E
22. 39° 00'N 123° 30'E
23. 37° 00'N 124° 00'E
24. 33° 00'N 124° 00'E
TAIWAN ADIZ COORDINATES
1. 21° 00'N 117° 30'E
2. 26° 00'N 117° 30'E
3. 26° 00'N 123° 00'E
4. 22° 30'N 126° 00'E
5. 21° 00'N 121° 30'E
LEGEND
ADIZ
International Boundary
JAPAN OUTER ADIZ COORDINATES
1. 33° 00'N 127° 00'E
2. 35° 13'N 129° 48'E
3. 36° 00'N 130° 30'E
4. 37° 17'N 133° 00'E
5. 40° 48'N 133° 00'E
6. 45° 45'N 138° 45'E
7. 45° 45'N 145° 45'E
8. 44° 26'N 145° 45'E
9. 44° 03'N 145° 19'E
Thence 3 miles from and parallel to the coast of Hokkaido to
10. 43° 30'N 145° 22'E
11. 42° 24'N 145° 35'E
12. 43° 26'N 145° 48' 30" E
13. 43° 23' 01" N 145° 50' 03" E
14. 43° 20'N 145° 52'E
15. 43° 16'N 145° 44'E
16. 42° 47'N 146° 23'E
17. 40° 13'N 144° 51'E
18. 35° 13'N 144° 21'E
19. 33° 19'N 140° 14'E
20. 31° 48'N 140° 21'E
21. 30° 00'N 135° 00'E
22. 28° 00'N 132° 00'E
23. 23° 00'N 132° 00'E
24. 22° 00'N 123° 00'E
25. 26° 00'N 123° 00'E
26. 30° 00'N 125° 00'E
27. 33° 00'N 125° 00'E
28. 33° 00'N 127° 00'E
JAPAN INNER ADIZ COORDINATES
29. 44° 00'N 141° 00'E
30. 43° 00'N 139° 13'E
31. 39° 20'N 139° 50'E
32. 38° 28'N 139° 08'E
33. 36° 00'N 135° 00'E
34. 35° 50'N 133° 00'E
35. 34° 00'N 130° 00'E
36. 33° 40'N 128° 30'E
37. 30° 43'N 129° 43'E
38. 27° 34'N 128° 26'E
39. Counterclockwise along 100 NM Arc centered on 26° 22'N 127° 48'E
40. 27° 12'N 129° 25'E
41. 30° 00'N 131° 03'E
42. 33° 00'N 134° 00'E
43. 33° 00'N 136° 00'E
44. 35° 00'N 141° 00'E
45. 39° 30'N 142° 30'E
46. 41° 00'N 142° 30'E
47. 42° 20'N 144° 00'E
48. 43° 00'N 144° 00'E
49. 44° 00'N 143° 00'E
50. 44° 00'N 141° 00'E
PHILIPPINE ADIZ COORDINATES
1. 21° 00'N 117° 30'E
2. 20° 25'N 117° 00'E
3. 11° 00'N 117° 00'E
4. 11° 00'N 126° 00'E
5. 15° 00'N 126° 00'E
6. 18° 00'N 124° 00'E
7. 21° 00'N 124° 00'E
120°E
130°E
140°E
45°N
40°N
35°N
30°N
25°N
20°N
15°N
10°N
(SEP 85)

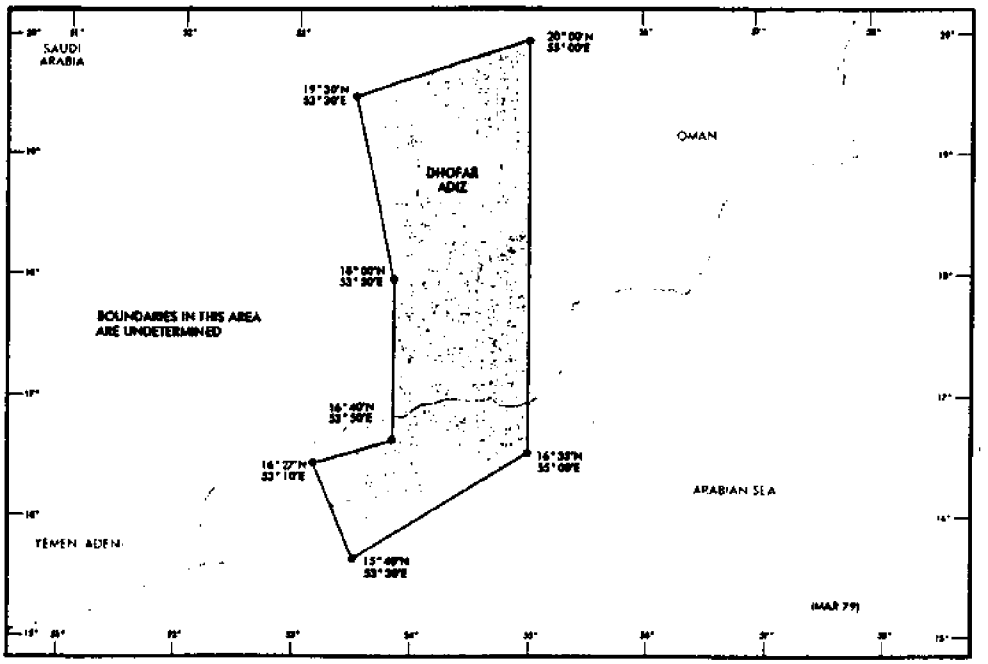


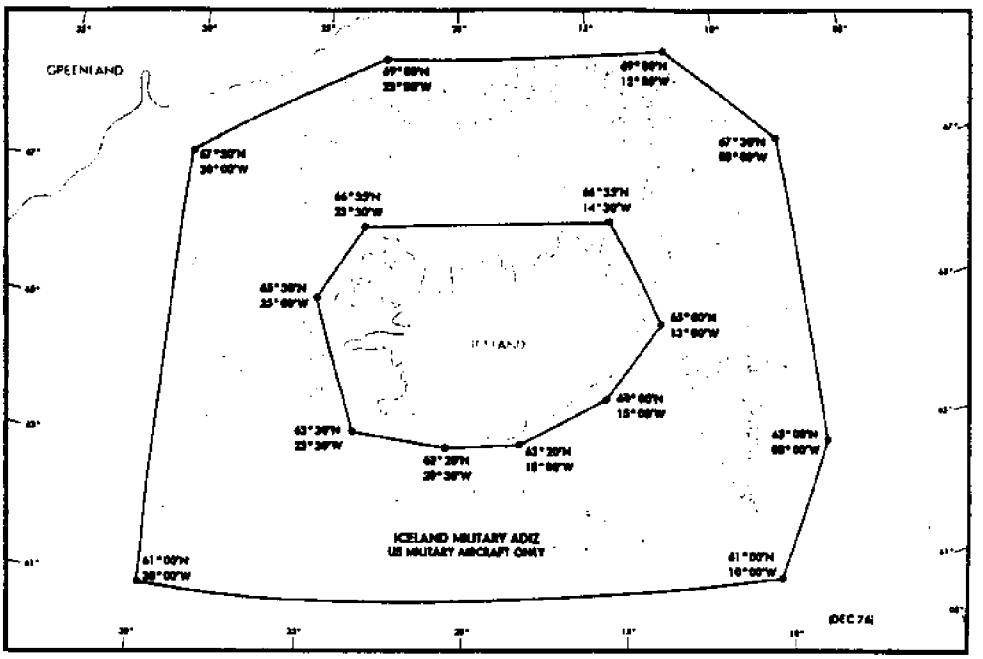
COORDINATES	COORDINATES	COORDINATES	COORDINATES	COORDINATES
NORTH INDIA	**WEST INDIA**	**CENTRAL INDIA**	**EAST INDIA**	**BURMA**
1. 29°40'N 73°18'E	1. 29°40'N 73°18'E	3. 29°30'N 80°20'E	20. 25°35'N 88°06'E	1. 24°00'N 95°00'E
2. 29°30'N 75°38'E	2. 29°30'N 75°38'E	12. 29°30'N 80°00'E	21. 26°05'N 87°55'E	2. 24°00'N 97°35'E
3. 29°30'N 80°20'E	4. 25°20'N 74°00'E	13. 26°14'N 80°00'E	22. 26°23'N 87°35'E	3. 14°00'N 99°00'E
DELHI	5. 23°04'N 72°38'E	14. 25°26'N 81°44'E	**BOMBAY**	4. 14°00'N 93°00'E
2. 29°30'N 75°38'E	6. 21°10'N 72°50'E	15. 23°15'N 86°00'E	23. 150.0 NM radius centered on 19°05'N 72°52'E	5. 20°00'N 93°00'E
4. 25°20'N 74°00'E	7. 20°57'N 69°40'E	16. 20°40'N 86°00'E		6. 20°00'N 95°00'E
10. 26°17'N 78°14'E	8. 21°15'N 68°07'E	**CALCUTTA**		
13. 26°14'N 80°00'E	9. 23°36'N 68°07'E	15. 23°15'N 86°00'E		
12. 29°30'N 80°00'E		16. 20°40'N 86°00'E		
3. 29°30'N 80°20'E		17. 20°40'N 86°00'E		
		18. 20°40'N 89°15'E		
		19. 21°38'N 89°18'E		
		20. 25°35'N 88°06'E		
		21. 26°05'N 87°55'E		
		22. 26°23'N 87°35'E		

(JUL 84)


SOUTHEAST ASIA
BURMA
LAOS
THAILAND
THAILAND ADIZ
DEMOCTRATIC CAMBODIA
VIETNAM
SOUTH CHINA SEA
ANDAMAN SEA
PENINSULAR MALAYSIA
SUMATRA
INDIAN OCEAN
SABAH/
SARAWAK
MALAYSIA
KALIMANTAN
INDONESIA ADIZ
JAVA
LEGEND
ADIZ
International Boundary
THAILAND ADIZ COORDINATES
1. 11°39'00"N 102°35'00"E
2. 09°48'30"N 101°46'30"E
3. 08°57'00"N 102°13'00"E
4. 08°29'00"N 102°43'00"E
5. 07°49'30"N 103°05'30"E
6. 07°22'00"N 103°42'30"E
7. 07°20'00"N 103°39'00"E
8. 07°03'00"N 103°06'00"E
9. 06°53'00"N 102°34'00"E
10. 06°50'00"N 102°21'12"E
11. 06°27'48"N 101°09'36"E
12. 06°27'30"N 100°10'00"E
13. 06°14'30"N 100°05'36"E
14. 06°25'24"N 100°00'00"E
15. 06°37'00"N 99°53'00"E
16. 06°28'30"N 99°39'12"E
17. 06°30'12"N 99°33'24"E
18. 06°28'54"N 99°30'42"E
19. 06°18'24"N 99°27'30"E
20. 06°16'18"N 99°19'18"E
21. 06°18'00"N 99°06'42"E
22. 07°15'00"N 98°00'00"E
23. 09°45'08"N 96°38'30"E
24. 09°40'35"N 97°26'36"E
25. 09°32'15"N 97°56'20"E
26. 09°30'15"N 98°06'00"E
27. 09°33'20"N 98°13'00"E
28. 09°43'00"N 98°16'10"E
29. 09°49'10"N 98°19'50"E
30. 09°54'00"N 98°24'30"E
31. 09°37'00"N 98°27'30"E
32. 09°35'10"N 98°32'00"E
33. 09°56'10"N 98°33'05"E
34. 10°00'00"N 98°39'00"E
04°00'S 104°00'E
04°00'S 117°00'E
10°00'S 104°00'E
10°00'S 117°00'E
100°E
110°E
20°N
10°S
(OCT 84)


EUROPE AIR DEFENSE IDENTIFICATION AND BUFFER ZONES
SWEDEN
DENMARK
CENTRAL EUROPEAN BUFFER ZONE
GERMAN ADIZ
BERLIN
GERMAN DEMOCRATIC REPUBLIC
POLAND
UNION OF SOVIET SOCIALIST REPUBLICS
CZECHOSLOVAKIA
FRANCE
FEDERAL REPUBLIC OF GERMANY
AUSTRIA
HUNGARY
SWITZERLAND
ITALIAN ADIZ
ITALIAN BUFFER ZONE
RUMANIA
YUGOSLAVIA
BULGARIA
CORSICA
ITALY
ALBANIA
GREECE
SARDINIA
GREEK BUFFER ZONE
TURKISH BUFFER ZONES
TURKEY
IRAN
SICILY
ALGERIA
TUNISIA
SYRIA
IRAQ
LEGEND
ADIZ
BUFFER ZONE
(Teeth point to area)
COORDINATES
GERMAN
1 55°00'N 10°00'E
2 54°30'N 11°30'E
3 54°26'N 11°08'E
4 54°00'N 10°19'E
5 53°00'N 10°19'E
6 52°20'N 10°38'E
7 52°08'N 10°14'E
8 51°08'N 08°38'E
9 51°03'N 08°40'E
10 50°27'N 08°40'E
11 50°30'N 08°08'E
12 50°23'N 09°40'E
13 50°20'N 09°48'E
14 50°56'N 09°31'E
15 50°48'N 09°23'E
16 50°15'N 09°40'E
17 50°09'N 10°13'E
18 50°19'N 10°13'E
19 50°34'N 09°44'E
20 50°46'N 09°40'E
21 50°53'N 09°26'E
22 50°00'N 10°40'E
23 50°00'N 11°40'E
24 49°20'N 12°20'E
25 49°00'N 12°40'E
26 48°35'N 13°38'E
ITALIAN
27 46°12'N 10°00'E
28 45°47'N 10°00'E
29 45°44'N 10°07'E
30 45°24'N 10°07'E
31 45°29'N 10°00'E
32 45°16'N 10°00'E
33 44°20'N 10°44'E
34 44°24'N 10°40'E
35 43°48'N 11°12'E
36 43°30'N 14°30'E
37 44°32'N 13°20'E
38 45°10'N 13°00'E
39 45°18'N 13°00'E
40 45°38'N 13°30'E
41 45°38'N 13°45'E
42 45°55'N 13°45'E
CENTRAL EUROPEAN
A 54°36'N 11°00'E
B 54°55'N 10°21'E
C 54°11'N 09°20'E
D 53°00'N 09°20'E
E 52°24'N 09°30'E
F 52°03'N 09°23'E
G 51°38'N 08°56'E
H 50°40'N 08°37'E
I 50°25'N 08°42'E
J 49°57'N 09°03'E
K 49°30'N 10°33'E
L 49°30'N 11°20'E
M 49°05'N 11°40'E
N 48°40'N 12°07'E
O 48°14'N 12°58'E
ITALIAN
A 46°36'N 13°02'E
B 45°50'N 13°23'E
C 45°27'N 13°09'E
D 45°27'N 13°15'E
GREEK
A 39°34'N 20°11'E
B 40°29'N 22°45'E
CW along 10 NM rad arc (nh on 40°31'N 22°58'W)
C 40°34'N 23°11'E
D 40°38'N 26°21'E
TURKISH
A 40°38'N 26°21'E
B 41°02'N 27°22'E
C 41°14'N 28°10'E
D 41°17'N 28°19'E
E 41°25'N 28°27'E
F 40°58'N 40°01'E
G 40°02'N 41°25'E
H 39°52'N 43°32'E
I 38°33'N 43°24'E
J 38°07'N 44°21'E
(JAN 81)


SAUDI ARABIA
OMAN
YEMEN ADEN
ARABIAN SEA
DHOFAR ADIZ
BOUNDARIES IN THIS AREA ARE UNDETERMINED
20° 00'N 53° 00'E
19° 30'N 53° 30'E
18° 00'N 53° 30'E
16° 40'N 53° 30'E
16° 27'N 53° 10'E
16° 35'N 55° 00'E
15° 48'N 53° 30'E
(MAR 79)


GREENLAND
ICELAND
ICELAND MILITARY ADIZ
US MILITARY AIRCRAFT ONLY
69° 00'N 33° 00'W
69° 00'N 15° 00'W
67° 30'N 30° 00'W
67° 30'N 00° 00'W
66° 35'N 23° 30'W
66° 35'N 14° 30'W
65° 30'N 25° 00'W
65° 00'N 13° 00'W
64° 00'N 15° 00'W
63° 30'N 23° 30'W
63° 20'N 20° 30'W
63° 20'N 18° 00'W
63° 00'N 00° 00'W
61° 00'N 28° 00'W
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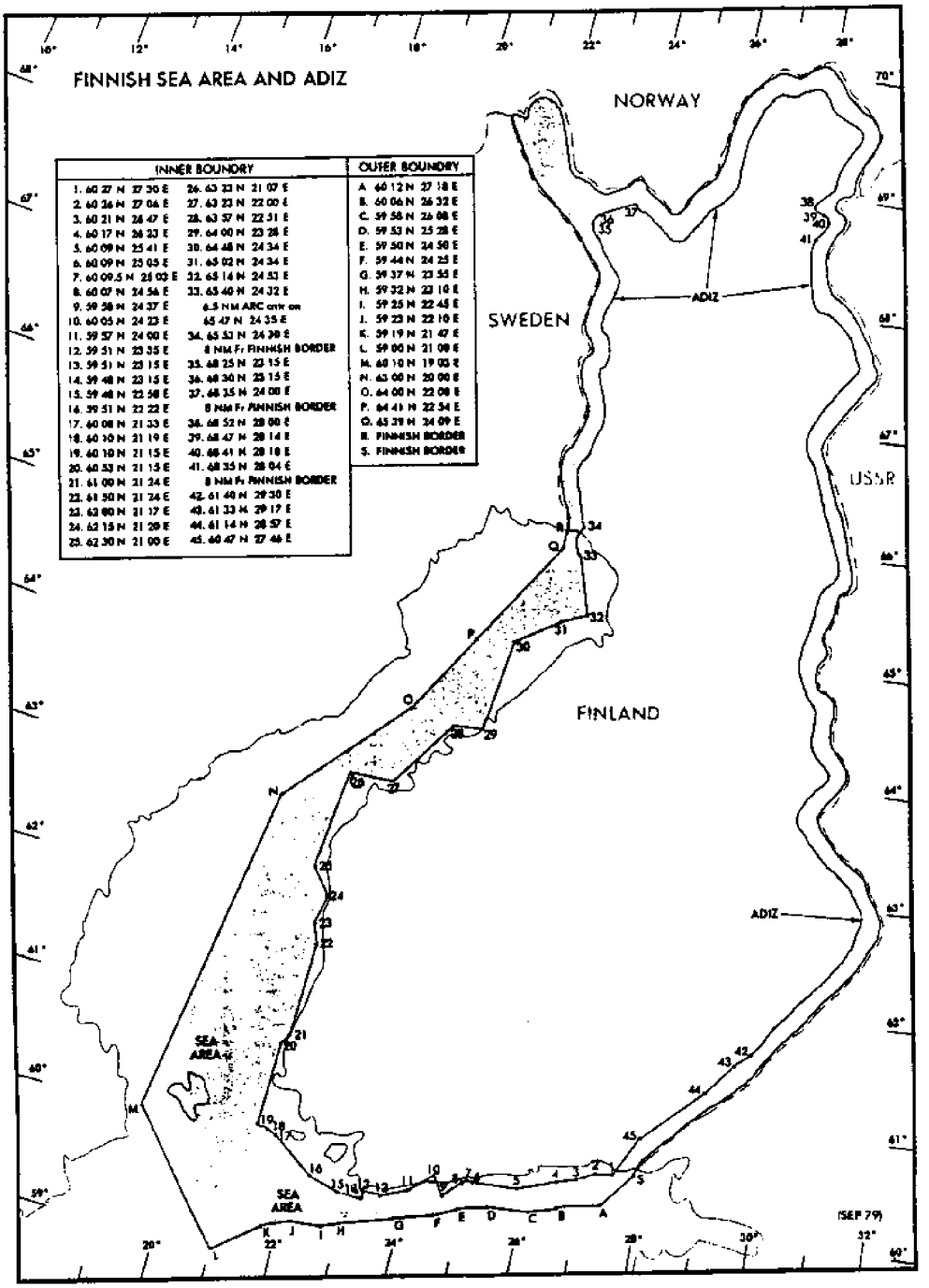
(DEC 76)


FINNISH SEA AREA AND ADIZ
NORWAY
SWEDEN
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ADIZ
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SEA AREA
(SEP 79)
INNER BOUNDRY
1. 60 27 N 27 30 E
2. 60 26 N 27 06 E
3. 60 21 N 26 47 E
4. 60 17 N 26 23 E
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12. 59 51 N 23 35 E
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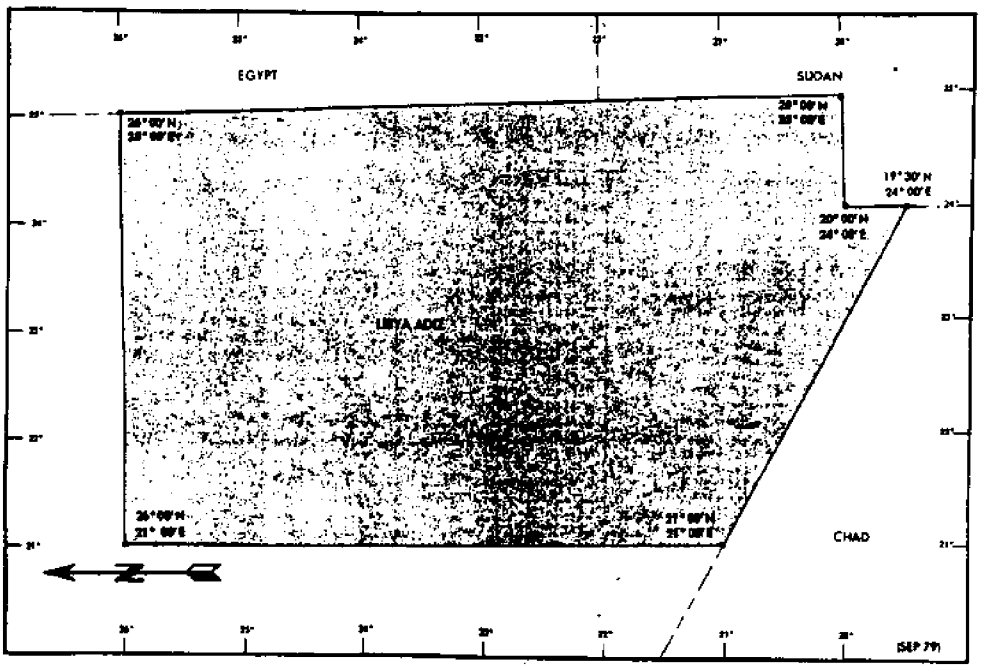
13. 59 51 N 23 15 E
33. 68 25 N 23 15 E
14. 59 48 N 23 15 E
36. 68 30 N 23 15 E
15. 59 48 N 22 58 E
37. 68 35 N 24 00 E
16. 59 51 N 22 22 E
8 NM Fr FINNISH BORDER
17. 60 08 N 21 33 E
38. 68 52 N 28 00 E
18. 60 10 N 21 19 E
39. 68 47 N 28 14 E
19. 60 10 N 21 15 E
40. 68 41 N 28 18 E
20. 60 53 N 21 15 E
41. 68 35 N 28 04 E
21. 61 00 N 21 24 E
8 NM Fr FINNISH BORDER
22. 61 50 N 21 24 E
42. 61 48 N 29 30 E
23. 62 00 N 21 17 E
43. 61 33 N 29 17 E
24. 62 15 N 21 29 E
44. 61 14 N 28 57 E
25. 62 30 N 21 00 E
45. 60 47 N 27 46 E
OUTER BOUNDRY
A 60 12 N 27 18 E
B. 60 06 N 26 32 E
C. 59 58 N 26 08 E
D. 59 53 N 25 28 E
E. 59 50 N 24 50 E
F. 59 44 N 24 25 E
G. 59 37 N 23 55 E
H. 59 32 N 23 10 E
I. 59 25 N 22 45 E
J. 59 23 N 22 10 E
K. 59 19 N 21 47 E
L. 59 00 N 21 09 E
M. 60 10 N 19 05 E
N. 63 00 N 20 00 E
O. 64 00 N 22 00 E
P. 64 41 N 22 54 E
Q. 65 39 N 24 09 E
R. FINNISH BORDER
S. FINNISH BORDER

10-4



3. Claimed Ocean Defense Zones

Republic of Korea Marine Defense Law No. 104,
March 2, 1950*

*This claim is not recognized in the Law of the Sea. U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/Supp.I and II at 27 (1959).

(*c*) MARINE DEFENCE LAW. LAW No. 104 PROMULGATED 2 MARCH 1950.

Article 1. The President of the Republic of Korea may, by fixing a boundary, designate some area as the "Sea of Defence" in the case of extraordinary necessity during a time of formal war or civil war.

The designation of such area provided for in the preceding paragraph, as well as the cancellation of such areas thereof shall be publicly announced by the Minister of National Defence.

Article 2. If it is necessary to take urgent measures the Commanding Officer of the Naval Yard or the Commanding Officer of the Guard Station may designate and proclaim the "Sea of Defence" as provided for in the preceding article.

Such proclamation shall be reported without delay to the President for Approval. If the confirmation from the President is not obtained, such proclamation shall lose effect thereafter, and the Minister of National Defence shall announce that fact without delay.

Article 3. Ships other than those of the National Defence Force may not enter into, leave from, or sail in the "Sea of Defence" without the permission of the Commanding Officer of the Naval Yard or of the Guard Station during the Hours of darkness (from sunset until sunrise).

Article 4. In case a zone of Naval Base belongs to the "Sea of Defence," ships other than those of the National Defence Force may not enter into, leave from or sail in the "Sea of Defence" without the permission of the Commanding Officer of the Naval Yard or Guard Station.

Article 5. Ships entering into, leaving from, sailing or anchoring in the "Sea of Defence" shall observe the directives of the Commanding Officer of the Naval Yard or of the Guard Station concerning all their movements.

Article 6. In case it is deemed necessary, the Commanding Officer of the Naval Yard or of the Guard Station may prohibit or place restraint on fishing, extraction of sea weeds and other actions which may serve as obstacles to military operations.

Article 7. The Commanding Officer of the Naval Yard or of the Guard Station may direct the ships that violate the orders issued in accordance with this law to withdraw from the "Sea of Defence" through a specified course designated by the Commanding Officer.

Article 8. The Captain or the Person acting for a Captain of a ship which violated the provisions under articles 3 to 5 shall be punished with penal servitude of not more than three years or a fine of not more than 200,000 won.

Article 9. The person who violates the Provisions of article 6 shall be punished with penal servitude not more than one year or a fine of not more than 100,000 won.

Addendum

This law shall be effective on and after the date of its promulgation.

S. ARMS CONTROL AND THE LAW OF NAVAL WARFARE

Convention Relating to the Status of Enemy Merchant Ships at the Outbreak of Hostilities, (Hague VI), October 18, 1907*

* The Hague Conventions and Declarations of 1899 and 1907, Carnegie Endowment for International Peace (1915).

CONVENTION (VI) RELATING TO THE STATUS OF ENEMY MERCHANT SHIPS AT THE OUTBREAK OF HOSTILITIES

Signed at The Hague, October 18, 1907

His Majesty the German Emperor, King of Prussia; [etc.]:

Anxious to ensure the security of international commerce against the surprises of war, and wishing, in accordance with modern practice, to protect as far as possible operations undertaken in good faith and in process of being carried out before the outbreak of hostilities, have resolved to conclude a Convention to this effect, and have appointed the following persons as their plenipotentiaries: Purpose of Convention. Plenipotentiaries

[Here follow the names of plenipotentiaries.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1

When a merchant ship belonging to one of the belligerent Powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately, or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated. Belligerent merchant ships in enemy ports at commencement of hostilities may depart freely.

The same rule should apply in the case of a ship which has left its last port of departure before the commencement of the war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.

ARTICLE 2

A merchant ship unable, owing to circumstances of *force majeure*, to leave the enemy port within the period contemplated in the above article, or which was not allowed to leave, can not be confiscated. May not be confiscated.

The belligerent may only detain it, without payment of compensation, but subject to the obligation of restoring it after the war, or requisition it on payment of compensation. May be detained or requisitioned.

ARTICLE 3[1]

Enemy merchant ships on high seas.

Liable to detention, requisition or demolition.

Enemy merchant ships which left their last port of departure before the commencement of the war, and are encountered on the high seas while still ignorant of the outbreak of hostilities can not be confiscated. They are only liable to detention on the understanding that they shall be restored after the war without compensation, or to be requisitioned, or even destroyed, on payment of compensation, but in such cases provision must be made for the safety of the persons on board as well as the security of the ship's papers.

Subject to laws and customs of maritime war.

After touching at a port in their own country or at a neutral port, these ships are subject to the laws and customs of maritime war.

ARTICLE 4

Enemy cargo.

Enemy cargo on board the vessels referred to in Articles 1 and 2 is likewise liable to be detained and restored after the termination of the war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship.

The same rule applies in the case of cargo on board the vessels referred to in Article 3.[1]

ARTICLE 5

Merchant ships intended for conversion into war-ships.

The present Convention does not affect merchant ships whose build shows that they are intended for conversion into war-ships.

ARTICLE 6

Powers bound.

The provisions of the present Convention do not apply except between contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE 7

Ratifications.

The present Convention shall be ratified as soon as possible.

Deposit at The Hague.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a

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[1]For reservations of Germany and Russia, see p. 145.

written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform them of the date on which it received the notification. Certified copies to Powers.

ARTICLE 8

Non-signatory Powers may adhere to the present Convention. Non-signatory Powers may adhere.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification. Notification to other Powers.

ARTICLE 9

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government. Effect of ratification.

ARTICLE 10

In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a certified copy of the notification to all the other Powers, informing them of the date on which it was received. Denunciation.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE 11

Register of ratifications.

A register kept by the Ministry of Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 7, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 8, paragraph 2) or of denunciation (Article 10, paragraph 1) have been received.

Each contracting Power is entitled to have access to this register and to be supplied with certified extracts from it.

Signing.

In faith whereof the plenipotentiaries have appended to the present Convention their signatures.

Deposit of original.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Here follow signatures.]

RATIFICATIONS, ADHESIONS AND RESERVATIONS

The foregoing Convention was *ratified* by the following signatory Powers on the dates indicated:

Austria-Hungary	November 27, 1909
Belgium	August 8, 1910
Brazil	January 5, 1914
Cuba	February 22, 1912
Denmark	November 27, 1909
France	October 7, 1910
Germany	November 27, 1909
Great Britain	November 27, 1909
Guatemala	March 15, 1911
Haiti	February 2, 1910
Japan	December 13, 1911
Luxemburg	September 5, 1912
Mexico	November 27, 1909
Netherlands	November 27, 1909
Norway	September 19, 1910
Panama	September 11, 1911
Portugal	April 13, 1911

Roumania .....March 1, 1912
Russia .....November 27, 1909
Salvador .....November 27, 1909
Siam .....March 12, 1910
Spain .....March 18, 1913
Sweden .....November 27, 1909
Switzerland .....May 12, 1910

Adhesions:
Liberia .....February 4, 1914
Nicaragua .....December 16, 1909

The following Powers signed the Convention but have not yet ratified:

Argentine Republic
Bolivia
Bulgaria
Chile
Colombia
Dominican Republic
Ecuador
Greece
Italy
Montenegro
Paraguay
Persia
Peru
Serbia
Turkey
Uruguay
Venezuela

Reservations:[1]

Germany

Under reservation of Article 3 and of Article 4, paragraph 2.[2]

Russia

Under the reservations made as to Article 3 and Article 4, paragraph 2, of the present Convention, and recorded in the minutes of the seventh plenary session of September 27, 1907.[2]

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[1]These reservations were made at signature and maintained at ratification.

[2]The German and Russian delegations considered that these provisions established an inequality between States in imposing financial burdens on those Powers which, lacking naval stations in different parts of the world, are not in a position to take vessels which they have seized into a port, but find themselves compelled to destroy them. *Actes et documents,* vol. i, p. 236; vol. iii, p. 918.

Convention Relative to the Laying of Automatic Submarine Contact Mines (Hague VIII), October 18, 1907*

* 36 Stat. 2332; T.S. 541.

October 18, 1907.

Convention between the United States and other Powers relative to the laying of automatic submarine contact mines. Signed at The Hague October 18, 1907; ratification advised by the Senate March 10, 1908; ratified by the President of the United States February 23, 1909; ratification deposited with the Netherlands Government November 27, 1909; proclaimed February 28, 1910.

ARTICLE PREMIER.

Il est interdit:

1°. de placer des mines automatiques de contact non amarrées, à moins qu'elles ne soient construites de manière à devenir inoffensives une heure au maximum après que celui qui les a placées en aura perdu le contrôle;

2°. de placer des mines automatiques de contact amarrées, qui ne deviennent pas inoffensives dès qu'elles auront rompu leurs amarres;

3°. d'employer des torpilles, qui ne deviennent pas inoffensives lorsqu'elles auront manqué leur but.

ARTICLE 2.

Il est interdit de placer des mines automatiques de contact devant les côtes et les ports de l'adversaire, dans le seul but d'intercepter la navigation de commerce.

ARTICLE 3.

Lorsque les mines automatiques de contact amarrées sont employées, toutes les précautions possibles doivent être prises pour la sécurité de la navigation pacifique.

Les belligérants s'engagent à pourvoir, dans la mesure du possible, à ce que ces mines deviennent inoffensives après un laps de temps limité, et, dans le cas où elles cesseraient d'être surveillées, à signaler les régions dangereuses, aussitôt que les exigence militaires le permettront, par un avis à la navigation, qui devra être aussi communiqué aux Gouvernements par la voie diplomatique.

ARTICLE 4.

Toute Puissance neutre qui place des mines automatiques de contact devant ses côtes, doit observer les mêmes règles et

ARTICLE 1.

It is forbidden:

Prohibitions. Unanchored automatic contact mines.

1. To lay unanchored automatic contact mines, except when they are so constructed as to become harmless one hour at most after the person who laid them ceases to control them;

Anchored contact mines.

2. To lay anchored automatic contact mines which do not become harmless as soon as they have broken loose from their moorings;

Torpedoes.

3. To use torpedoes which do not become harmless when they have missed their mark.

ARTICLE 2.

Mines to intercept commercial shipping.

It is forbidden to lay automatic contact mines off the coast and ports of the enemy, with the sole object of intercepting commercial shipping.

ARTICLE 3.

Protection of peaceful shipping.

When anchored automatic contact mines are employed, every possible precaution must be taken for the security of peaceful shipping.

Notice of danger zones.

The belligerents undertake to do their utmost to render these mines harmless within a limited time, and, should they cease to be under surveillance, to notify the danger zones as soon as military exigencies permit, by a notice addressed to ship owners, which must also be communicated to the Governments through the diplomatic channel.

ARTICLE 4.

Mines laid by neutral Powers.

Neutral Powers which lay automatic contact mines off their coasts must observe the same rules and take the same precau-

prendre les mêmes précautions que celles qui sont imposées aux belligérants.

La Puissance neutre doit faire connaître à la navigation, par un avis préalable, les régions où seront mouillées des mines automatiques de contact. Cet avis devra être communiqué d'urgence aux Gouvernements par voie diplomatique.

tions as are imposed on belligerents.

The neutral Power must inform ship-owners, by a notice issued in advance, where automatic contact mines have been laid. This notice must be communicated at once to the Governments through the diplomatic channel.

ARTICLE 5.

Removal at close of war.

A la fin de la guerre, les Puissances contractantes s'engagent à faire tout ce qui dépend d'elles pour enlever, chacune de son côté, les mines qu'elles ont placées.

Notification of position.

Quant aux mines automatiques de contact amarrées, que l'un des belligérants aurait posées le long des côtes de l'autre, l'emplacement en sera notifié à l'autre partie par la Puissance qui les a posées et chaque Puissance devra procéder dans le plus bref délai à l'enlèvement des mines qui se trouvent dans ses eaux.

ARTICLE 5.

At the close of the war, the Contracting Powers undertake to do their utmost to remove the mines which they had laid, each Power removing its own mines.

As regards anchored automatic contact mines laid by one of the belligerents off the coast of the other, their position must be notified to the other party by the Power which laid them, and each Power must proceed with the least possible delay to remove the mines in its own waters.

ARTICLE 6.

Adoption of perfected mines.

Les Puissances contractantes, qui ne disposent pas encore de mines perfectionnées telles qu'elles sont prévues dans la présente Convention, et qui, par conséquent, ne sauraient actuellement se conformer aux règles établies dans les articles 1 et 3, s'engagent à transformer, aussitôt que possible, leur matériel de mines, afin qu'il réponde aux prescriptions susmentionnées.

Ante, p. 2343.

ARTICLE 6.

The Contracting Powers which do not at present own perfected mines of the pattern contemplated in the present Convention, and which, consequently, could not at present carry out the rules laid down in Articles 1 and 3, undertake to convert the *matériel* of their mines as soon as possible, so as to bring it into conformity with the foregoing requirements.

ARTICLE 7.

Powers bound.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE 7.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE 8.

Ratification.

La présente Convention sera ratifiée aussitôt que possible.

Deposit at The Hague.

Les ratifications seront déposées à La Haye.

ARTICLE 8.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bas et par la voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

Certified copies to Powers.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent, by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it has received the notification.

ARTICLE 9.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhesion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE 9.

Adherence of non-signatory Powers.

Non-Signatory Powers may adhere to the present Convention.

Notification of intent.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, transmitting to it the act of adhesion, which shall be deposited in the archives of the said Government.

Communication to other Powers.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

ARTICLE 10.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt, et pour les Puissancse qui ratifieront ultérieurement ou

ARTICLE 10.

Effect of ratification.

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify

qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE 11.

Duration.

La présente Convention aura une durée de sept ans à partir du soixantième jour après la date du premier dépôt de ratifications.

Denunciation.

Sauf dénonciation, elle continuera d'être en vigueur après l'expiration de ce délai.

La dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les Puissances, en leur faisant savoir la date à laquelle il l'a reçue.

Notifying Power only affected.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et six mois après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE 12.

Reopening question.

Les Puissances contractantes s'engagent à reprendre la question de l'emploi des mines automatiques de contact six mois avant l'expiration du terme prévu par l'alinéa premier de l'article précédent, au cas où elle n'aurait pas été reprise et résolue à une date antérieure par la troisième Conférence de la Paix.

New convention.

Si les Puissances contractantes concluent une nouvelle Convention relative à l'emploi des mines, dès son entrée en vigueur, la présente Convention cessera d'être applicable.

ARTICLE 13.

Register of ratifications.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'article 8 alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (article 9 alinéa 2) ou de dénonciation (article 11 alinéa 3).

Ante, p. 2345.

Supra.

subsequently or adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE 11.

The present Convention shall remain in force for seven years, dating from the sixtieth day after the date of the first deposit of ratifications.

Unless denounced, it shall continue in force after the expiration of this period.

The denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and six months after the notification has reached the Netherland Government.

ARTICLE 12.

The Contracting Powers undertake to reopen the question of the employment of automatic contact mines six months before the expiration of the period contemplated in the first paragraph of the preceding Article, in the event of the question not having been already reopened and settled by the Third Peace Conference.

If the Contracting Powers conclude a fresh Convention relative to the employment of mines, the present Convention shall cease to be applicable from the moment it comes into force.

ARTICLE 13.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 8, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 9, paragraph 2) or of denunciation (Article 11, paragraph 3) have been received.

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

1. Pour l'Allemagne. Sous réserve de l'article 2:
   MARSCHALL.
   KRIEGE.
2. Pour les Etats Unis d'Amérique:
   JOSEPH H. CHOATE.
   HORACE PORTER.
   U. M. ROSE.
   DAVID JAYNE HILL.
   C. S. SPERRY.
   WILLIAM I. BUCHANAN.
3. Pour l'Argentine:
   ROQUE SAENZ PEÑA.
   LUIS M. DRAGO.
   C. RÚEZ LARRETA.
4. Pour l'Autriche-Hongrie:
   MÉREY.
   Bon MACCHIO.
5. Pour la Belgique:
   A. BEERNAERT.
   VAN DEN HUEVEL.
   GUILLAUME.
6. Pour la Bolivie:
   CLAUDIO PINILLA.
7. Pour le Brésil:
   RUY BARBOSA.
   E. LISBÔA.
8. Pour la Bulgarie:
   Général-Major VINAROFF.
   IV. KARANDJOULOFF.
9. Pour le Chili:
   DOMINGO GANA.
   AUGUSTO MATTE.
   CARLOS CONCHA.
10. Pour la Chine.
11. Pour la Colombie:
    JORGE HOLGUIN.
    S. PEREZ TRIANA.
    M. VARGAS.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention. Signing.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference. Deposit of original.

[Here follow signatures.] Signatures.

Ratification.

And whereas the said Convention has been duly ratified by the United States of America, by and with the advice and consent of the Senate thereof, and by the Governments of Austria-Hungary, Denmark, Germany, Great Britain, Mexico, the Netherlands, and Salvador, and the ratifications of the said Governments were, under the provisions of Article 8 of the said Convention, deposited by their respective plenipotentiaries with the Netherlands Government on November 27, 1909;

Ante, p. 2344.

Proclamation.

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said Convention 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 testimony 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 twenty-eighth day of February in the year of our Lord one thousand nine hundred and ten, and of the Independence of the United States of America the one hundred and thirty-fourth.

[SEAL.]

WM H TAFT

By the President:

P C KNOX

Secretary of State.

Convention Concerning Adaptation to Maritime Warfare of Principles of the Geneva Convention (Hague X), October 18, 1907*

* 36 Stat. 2371; T.S. 543.

ADAPTATION TO MARITIME WARFARE OF PRINCIPLES OF GENEVA CONVENTION (HAGUE, X)

Convention signed at The Hague October 18, 1907
Senate advice and consent to ratification March 10, 1908
Ratified by the President of the United States February 23, 1909
Procès-verbal of first deposit of ratifications (including that of the United States) at The Hague dated November 27, 1909
Entered into force January 26, 1910
Proclaimed by the President of the United States February 28, 1910
Replaced by convention of August 12, 1949,[1] as between contracting parties to the later convention

36 Stat. 2371; Treaty Series 543

[TRANSLATION]

X

CONVENTION FOR THE ADAPTATION TO MARITIME WARFARE OF THE PRINCIPLES OF THE GENEVA CONVENTION

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions Beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haiti; His Majesty the King of Italy; His Majesty the Emperor of Japan;

[1] 6 UST 3217; TIAS 3363.

His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; His Majesty the King of Norway; the President of the Republic of Panama; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, etc.; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Servia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Animated alike by the desire to diminish, as far as depends on them, the inevitable evils of war;

And wishing with this object to adapt to maritime warfare the principles of the Geneva Convention of the 6th July, 1906; [2]

Have resolved to conclude a Convention for the purpose of revising the Convention of the 29th July, 1899,[3] relative to this question, and have appointed the following as their Plenipotentiaries:

His Majesty the Emperor of Germany, King of Prussia:

His Excellency Baron Marschall von Bieberstein, His Minister of State, His Ambassador Extraordinary and Plenipotentiary at Constantinople;

Dr. Johannes Kriege, His Envoy on extraordinary mission to the present Conference, His Privy Counselor of Legation and Jurisconsult to the Imperial Ministry of Foreign Affairs, Member of the Permanent Court of Arbitration.

The President of the United States of America:

His Excellency Mr. Joseph H. Choate, Ambassador Extraordinary;

His Excellency Mr. Horace Porter, Ambassador Extraordinary;

His Excellency Mr. Uriah M. Rose, Ambassador Extraordinary;

His Excellency Mr. David Jayne Hill, Envoy Extraordinary and Minister Plenipotentiary at The Hague;

Rear Admiral Charles S. Sperry, Minister Plenipotentiary;

Brigadier General George B. Davis, Judge Advocate General of the United States Army, Minister Plenipotentiary;

Mr. William I. Buchanan, Minister Plenipotentiary.

The President of the Argentine Republic:

His Excellency Mr. Roque Saenz Peña, former Minister of Foreign Affairs, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Rome, Member of the Permanent Court of Arbitration;

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[2] TS 464, *ante*, p. 516.

[3] TS 396, *ante*, p. 263.

His Excellency Mr. Luis M. Drago, former Minister of Foreign Affairs and Worship of the Republic, National Deputy, Member of the Permanent Court of Arbitration;

His Excellency Mr. Carlos Rodriguez Larreta, former Minister of Foreign Affairs and Worship of the Republic, Member of the Permanent Court of Arbitration.

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary:

His Excellency Mr. Gaëtan Mérey de Kapos-Mére, His Privy Counselor, His Ambassador Extraordinary and Plenipotentiary;

His Excellency Baron Charles de Macchio, His Envoy Extraordinary and Minister Plenipotentiary at Athens.

His Majesty the King of the Belgians:

His Excellency Mr. Beernaert, His Minister of State, Member of the Chamber of Representatives, Member of the Institute of France and of the Royal Academies of Belgium and Roumania, Honor Member of the Institute of International Law, Member of the Permanent Court of Arbitration;

His Excellency Mr. J. van den Heuvel, His Minister of State, former Minister of Justice;

His Excellency Baron Guillaume, His Envoy Extraordinary and Minister Plenipotentiary at The Hague, Member of the Royal Academy of Roumania.

The President of the Republic of Bolivia:

His Excellency Mr. Claudio Pinilla, Minister of Foreign Affairs of the Republic, Member of the Permanent Court of Arbitration;

His Excellency Mr. Fernando E. Guachalla, Minister Plenipotentiary at London.

The President of the Republic of the United States of Brazil:

His Excellency Mr. Ruy Barbosa, Ambassador Extraordinary and Plenipotentiary, Member of the Permanent Court of Arbitration;

His Excellency Mr. Eduardo F. S. dos Santos Lisbôa, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Royal Highness the Prince of Bulgaria:

Mr. Vrban Vinaroff, Major General of the General Staff, attached to His suite;

Mr. Ivan Karandjouloff, Director of Public Prosecution of the Court of Cassation.

The President of the Republic of Chile:

His Excellency Mr. Domingo Gana, Envoy Extraordinary and Minister Plenipotentiary of the Republic at London;

His Excellency Mr. Augusto Matte, Envoy Extraordinary and Minister

Plenipotentiary of the Republic at Berlin;

His Excellency Mr. Carlos Concha, former Minister of War, former President of the Chamber of Deputies, former Envoy Extraordinary and Minister Plenipotentiary at Buenos Aires.

His Majesty the Emperor of China:

His Excellency Mr. Lou Tseng-tsiang, His Ambassador Extraordinary;

His Excellency Mr. Tsien Sun, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the Republic of Colombia:

General Jorge Holguin;

Mr. Santiago Pérez Triana;

His Excellency General Marceliano Vargas, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Paris.

The Provisional Governor of the Republic of Cuba:

Mr. Antonio Sanchez de Bustamante, Professor of International Law in the University of Habana, Senator of the Republic;

His Excellency Mr. Gonzalo de Quesada y Aróstegui, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Washington;

Mr. Manuel Sanguily, former Director of the Institute of Secondary Instruction of Habana, Senator of the Republic.

His Majesty the King of Denmark:

His Excellency Mr. Constantin Brun, His Chamberlain, His Envoy Extraordinary and Minister Plenipotentiary at Washington;

Rear Admiral Christian Frederik Scheller;

Mr. Axel Vedel, His Chamberlain, Chief of Division in the Royal Ministry of Foreign Affairs.

The President of the Dominican Republic:

Mr. Francisco Henriquez y Carvajal, former Secretary of State in the Ministry of Foreign Affairs of the Republic, Member of the Permanent Court of Arbitration;

Mr. Apolinar Tejera, Rector of the Professional Institute of the Republic, Member of the Permanent Court of Arbitration.

The President of the Republic of Ecuador:

His Excellency Mr. Victor Rendón, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Paris and at Madrid;

Mr. Enrique Dorn y de Alsúa, Chargé d'Affaires.

His Majesty the King of Spain:

His Excellency Mr. W. R. de Villa-Urrutia, Senator, former Minister of Foreign Affairs, His Ambassador Extraordinary and Plenipotentiary at London;

His Excellency Mr. José de la Rica y Calvo, His Envoy Extraordinary and Minister Plenipotentiary at The Hague;

Mr. Gabriel Maura y Gamazo, Count de Mortera, Deputy to the Cortes.

The President of the French Republic:

His Excellency Mr. Léon Bourgeois, Ambassador Extraordinary of the Republic, Senator, former President of the Council of Ministers, former Minister of Foreign Affairs, Member of the Permanent Court of Arbitration;

Baron d'Estournelles de Constant, Senator, Minister Plenipotentiary of class I, Member of the Permanent Court of Arbitration;

Mr. Louis Renault, Professor of the Faculty of Law of the University of Paris, Honorary Minister Plenipotentiary, Jurisconsult of the Ministry of Foreign Affairs, Member of the Institute of France, Member of the Permanent Court of Arbitration;

His Excellency Mr. Marcellin Pellet, Envoy Extraordinary and Minister Plenipotentiary of the French Republic at The Hague.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions Beyond the Seas, Emperor of India:

His Excellency the Right Honorable Sir Edward Fry, G.C.B., Member of the Privy Council, His Ambassador Extraordinary, Member of the Permanent Court of Arbitration;

His Excellency the Right Honorable Sir Ernest Mason Satow, G.C.M.G., Member of the Privy Council, Member of the Permanent Court of Arbitration;

His Excellency the Right Honorable Donald James Mackay Baron Reay, G.C.S.I., G.C.I.E., Member of the Privy Council, former President of the Institute of International Law;

His Excellency Sir Henry Howard, K.C.M.G., C.B., His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Hellenes:

His Excellency Mr. Cléon Rizo Rangabé, His Envoy Extraordinary and Minister Plenipotentiary at Berlin;

Mr. Georges Streit, Professor of International Law in the University of Athens, Member of the Permanent Court of Arbitration.

The President of the Republic of Guatemala:

Mr. José Tible Machado, Chargé d'Affaires of the Republic at The Hague and at London, Member of the Permanent Court of Arbitration;

Mr. Enrique Gómez Carillo, Chargé d'Affaires of the Republic at Berlin.

The President of the Republic of Haiti:

His Excellency Mr. Jean Joseph Dalbémar, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Paris;

His Excellency Mr. J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Washington;

Mr. Pierre Hudicourt, former Professor of Public International Law, Attorney at Law at Port au Prince.

His Majesty the King of Italy:

His Excellency Count Joseph Tornielli Brusati di Vergano, Senator of the Kingdom, Ambassador of His Majesty the King at Paris, Member of the Permanent Court of Arbitration, President of the Italian Delegation;

His Excellency Commendatore Guido Pompilj, Deputy to the Parliament, Under Secretary of State in the Royal Ministry of Foreign Affairs;

Commendatore Guido Fusinato, Counselor of State, Deputy to the Parliament, former Minister of Education.

His Majesty the Emperor of Japan:

His Excellency Mr. Keiroku Tsudzuki, His Ambassador Extraordinary and Plenipotentiary;

His Excellency Mr. Aimaro Sato, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau:

His Excellency Mr. Eyschen, His Minister of State, President of the Grand Ducal Government;

Count de Villers, Chargé d'Affaires of the Grand Duchy at Berlin.

The President of the United Mexican States:

His Excellency Mr. Gonzalo A. Esteva, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Rome;

His Excellency Mr. Sebastian B. de Mier, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Paris;

His Excellency Mr. Francisco L. de la Barra, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Brussels and at The Hague.

His Royal Highness the Prince of Montenegro:

His Excellency Mr. Nelidow, now Imperial Privy Counselor, Ambassador of His Majesty the Emperor of All the Russias at Paris;

His Excellency Mr. de Martens, Imperial Privy Counselor, Permanent Member of the Council of the Imperial Ministry of Foreign Affairs of Russia;

His Excellency Mr. Tcharykow, now Imperial Counselor of State, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of All the Russias at The Hague.

His Majesty the King of Norway:

His Excellency Mr. Francis Hagerup, former President of the Council, former Professor of Law, His Envoy Extraordinary and Minister Plenipo-

tentiary at The Hague and at Copenhagen, Member of the Permanent Court of Arbitration.

The President of the Republic of Panama:
Mr. Belisario Porras.

The President of the Republic of Paraguay:
His Excellency Mr. Eusebio Machaïn, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Paris;
Count G. du Monceau de Bergendal, Consul of the Republic at Brussels.

Her Majesty the Queen of the Netherlands:
Mr. W. H. de Beaufort, Her former Minister of Foreign Affairs, Member of the Second Chamber of the States-General;
His Excellency Mr. T. M. C. Asser, Her Minister of State, Member of the Council of State, Member of the Permanent Court of Arbitration;
His Excellency Jonkheer J. C. C. den Beer Poortugael, Lieutenant General Retired, former Minister of War, Member of the Council of State;
His Excellency Jonkheer J. A. Röell, Her Aide-de-Camp on Special Service, Vice Admiral Retired, former Minister of the Navy;
Mr. J. A. Loeff, Her former Minister of Justice, Member of the Second Chamber of the States-General.

The President of the Republic of Peru:
His Excellency Mr. Carlos G. Candamo, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Paris and at London, Member of the Permanent Court of Arbitration.

His Imperial Majesty the Shah of Persia:
His Excellency Samad Khan Momtazos Saltaneh, His Envoy Extraordinary and Minister Plenipotentiary at Paris, Member of the Permanent Court of Arbitration;
His Excellency Mirza Ahmed Khan Sadigh Ul Mulk, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of Portugal and of the Algarves, etc.
His Excellency the Marquis de Soveral, His Counselor of State, Peer of the Kingdom, former Minister of Foreign Affairs, His Envoy Extraordinary and Minister Plenipotentiary at London, His Ambassador Extraordinary and Plenipotentiary;
His Excellency Count de Selir, His Envoy Extraordinary and Minister Plenipotentiary at The Hague;
His Excellency Mr. Alberto d'Oliveira, His Envoy Extraordinary and Minister Plenipotentiary at Berne.

His Majesty the King of Roumania:

His Excellency Mr. Alexandre Beldiman, His Envoy Extraordinary and Minister Plenipotentiary at Berlin;

His Excellency Mr. Edgar Mavrocordato, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the Emperor of All the Russias:

His Excellency Mr. Nelidow, His present Privy Counselor, His Ambassador at Paris;

His Excellency Mr. de Martens, His Privy Counselor, Permanent Member of the Council of the Imperial Ministry of Foreign Affairs, Member of the Permanent Court of Arbitration;

His Excellency Mr. Tcharykow, His present Counselor of State, His Chamberlain, His Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the Republic of Salvador:

Mr. Pedro I. Matheu, Chargé d'Affaires of the Republic at Paris, Member of the Permanent Court of Arbitration;

Mr. Santiago Perez Triana, Chargé d'Affaires of the Republic at London.

His Majesty the King of Servia:

His Excellency General Sava Groutich, President of the Council of State;

His Excellency Mr. Milovan Milovanovitch, His Envoy Extraordinary and Minister Plenipotentiary at Rome, Member of the Permanent Court of Arbitration;

His Excellency Mr. Michael Militchevitch, His Envoy Extraordinary and Minister Plenipotentiary at London and at The Hague.

His Majesty the King of Siam:

Mom Chatidej Udom, Major General;

Mr. C. Corragioni d'Orelli, His Counselor of Legation;

Luang Bhuvanarth Narübal, Captain.

His Majesty the King of Sweden, of the Goths and Vandals:

His Excellency Mr. Knut Hjalmar Leonard Hammarskjold, His former Minister of Justice, His Envoy Extraordinary and Minister Plenipotentiary at Copenhagen, Member of the Permanent Court of Arbitration;

Mr. Johannes Hellner, His Former Minister without portfolio, former Member of the Supreme Court of Sweden, Member of the Permanent Court of Arbitration.

The Swiss Federal Council:

His Excellency Mr. Gaston Carlin, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at London and at The Hague;

Mr. Eugène Borel, Colonel of the General Staff, Professor in the University of Geneva;

Mr. Max Huber, Professor of Law in the University of Zürich.

His Majesty the Emperor of the Ottomans:

His Excellency Turkhan Pasha, His Ambassador Extraordinary, Minister of the Evkaf;

His Excellency Rechid Bey, His Ambassador at Rome;

His Excellency Mehemmed Pasha, Vice Admiral.

The President of the Oriental Republic of Uruguay:

His Excellency Mr. José Batlle y Ordoñez, former President of the Republic, Member of the Permanent Court of Arbitration;

His Excellency Mr. Juan P. Castro, former President of the Senate, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Paris, Member of the Permanent Court of Arbitration.

The President of the United States of Venezuela:

Mr. José Gil Fortoul, Chargé d'Affaires of the Republic at Berlin.

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

Article 1

Military hospital-ships, that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick, and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as warships as regards their stay in a neutral port.

Article 2

Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall be likewise respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships must be provided with a certificate from the competent authorities declaring that the vessels have been under their control while fitting out and on final departure.

ARTICLE 3

Hospital-ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, on condition that they are placed under the control of one of the belligerents, with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter has notified their name to his adversary at the commencement of or during hostilities, and in any case, before they are employed.

ARTICLE 4

The ships mentioned in Articles 1, 2, and 3 shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use these ships for any military purpose.

These vessels must in no wise hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents shall have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a Commissioner on board; they can even detain them, if important circumstances require it.

As far as possible, the belligerents shall enter in the log of the hospital-ships the orders which they give them.

ARTICLE 5

Military hospital-ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a half in breadth.

The ships mentioned in Articles 2 and 3 shall be distinguished by being painted white outside with a horizontal band of red about a metre and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital-ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva Convention, and further, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose control they are placed.

Hospital-ships which, in the terms of Article 4, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong.

The ships and boats above mentioned which wish to ensure by night the freedom from interference to which they are entitled, must, subject to the assent of the belligerent they are accompanying, take the necessary measures to render their special painting sufficiently plain.

219-915—68——46

ARTICLE 6

The distinguishing signs referred to in Article 5 can only be used, whether in time of peace or war, for protecting or indicating the ships therein mentioned.

ARTICLE 7

In the case of a fight on board a war-ship, the sick-wards shall be respected and spared as far as possible.

The said sick-wards and the materiel belonging to them remain subject to the laws of war; they cannot, however, be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded.

The commander, however, into whose power they have fallen may apply them to other purposes, if the military situation requires it, after seeing that the sick and wounded on board are properly provided for.

ARTICLE 8

Hospital-ships and sick-wards of vessels are no longer entitled to protection if they are employed for the purpose of injuring the enemy.

The fact of the staff of the said ships and sick-wards being armed for maintaining order and for defending the sick and wounded, and the presence of wireless telegraphy apparatus on board, is not a sufficient reason for withdrawing protection.

ARTICLE 9

Belligerents may appeal to the charity of the commanders of neutral merchant-ships, yachts, or boats to take on board and tend the sick and wounded.

Vessels responding to this appeal, and also vessels which have of their own accord rescued sick, wounded, or shipwrecked men, shall enjoy special protection and certain immunities. In no case can they be captured for having such persons on board, but, apart from special undertakings that have been made to them, they remain liable to capture for any violations of neutrality they may have committed.

ARTICLE 10

The religious, medical, and hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave, when the Commander-in-chief considers it possible.

The belligerents must guarantee to the said staff, when it has fallen into their hands, the same allowances and pay which are given to the staff of corresponding rank in their own navy.

ARTICLE 11

Sailors and soldiers on board, when sick or wounded, as well as other persons officially attached to fleets or armies, whatever their nationality, shall be respected and tended by the captors.

ARTICLE 12

Any war-ship belonging to a belligerent may demand that sick, wounded, or shipwrecked men on board military hospital-ships, hospital-ships belonging to relief societies or to private individuals, merchant-ships, yachts, or boats, whatever the nationality of these vessels, should be handed over.

ARTICLE 13

If sick, wounded, or shipwrecked persons are taken on board a neutral war-ship, every possible precaution must be taken that they do not again take part in the operations of the war.

ARTICLE 14

The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

ARTICLE 15

The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States be guarded by the neutral State so as to prevent them again taking part in the operations of the war.

The expenses of tending them in hospital and interning them shall be borne by the State to which the shipwrecked, sick, or wounded persons belong.

ARTICLE 16

After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked, sick, and wounded, and to protect them, as well as the dead, against pillage and ill treatment.

They shall see that the burial, whether by land or sea, or cremation of the dead shall be preceded by a careful examination of the corpse.

ARTICLE 17

Each belligerent shall send, as early as possible, to the authorities of their country, navy, or army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him.

The belligerents shall keep each other informed as to internments and transfers as well as to the admissions into hospital and deaths which have occurred among the sick and wounded in their hands. They shall collect all the objects of personal use, valuables, letters, etc., which are found in the captured ships, or which have been left by the sick or wounded who died in hospital, in order to have them forwarded to the persons concerned by the authorities of their own country.

ARTICLE 18

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE 19

The Commanders-in-chief of the belligerent fleets must see that the above Articles are properly carried out; they will have also to see to cases not covered thereby, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

ARTICLE 20

The Signatory Powers shall take the necessary measures for bringing the provisions of the present Convention to the knowledge of their naval forces, and especially of the members entitled thereunder to immunity, and for making them known to the public.

ARTICLE 21

The Signatory Powers likewise undertake to enact or to propose to their Legislatures, if the criminal laws are inadequate, the measures necessary for checking in time of war individual acts of pillage and ill-treatment in respect to the sick and wounded in the fleet, as well as for punishing, as an unjustifiable adoption of naval or military marks, the unauthorized use of the distinctive marks mentioned in Article 5 by vessels not protected by the present Convention.

They will communicate to each other, through the Netherland Government, the enactments for preventing such acts at the latest within five years of the ratification of the present Convention.

ARTICLE 22

In the case of operations of war between the land and sea forces of belligerents, the provisions of the present Convention do not apply except between the forces actually on board ship.

ARTICLE 23

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a procès-verbal signed by the Representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

Subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the procès-verbal relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government through the diplomatic channel to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 24

Non-Signatory Powers which have accepted the Geneva Convention of the 6th July, 1906, may adhere to the present Convention.

The Power which desires to adhere notifies its intention to the Netherland Government in writing, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 25

The present Convention, duly ratified, shall replace as between Contracting Powers, the Convention of the 29th July, 1899, for the adaptation to maritime warfare of the principles of the Geneva Convention.

The Convention of 1899 remains in force as between the Powers which signed it but which do not also ratify the present Convention.

ARTICLE 26

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the

date of the procès-verbal of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE 27

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers, informing them at the same time of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE 28

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 23, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 24, paragraph 2) or of denunciation (Article 27, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

1. For Germany:
MARSCHALL
KRIEGE

2. For the United States of America:
JOSEPH H. CHOATE
HORACE PORTER
U. M. ROSE
DAVID JAYNE HILL
C. S. SPERRY
WILLIAM I. BUCHANAN

3. For Argentina:
ROQUE SAENZ PEÑA
LUIS M. DRAGO
C. RÚEZ LARRETA

4. For Austria-Hungary:
MÉREY
BON MACCHIO

5. For Belgium:
A. BEERNAERT
J. VAN DEN HEUVEL
GUILLAUME

6. For Bolivia:
CLAUDIO PINILLA

7. For Brazil:
RUY BARBOSA
E. LISBÔA

8. For Bulgaria:
GÉNÉRAL-MAJOR VINAROFF
IV. KARANDJOULOFF

9. For Chile:
DOMINGO GANA
AUGUSTO MATTE
CARLOS CONCHA

10. For China: Under reservation of Article 21.
LOU TSENG-TSIANG
TSIEN SUN

11. For Colombia:
JORGE HOLGUIN
S. PEREZ TRIANA
M. VARGAS

12. For the Republic of Cuba:
ANTONIO S. DE BUSTAMANTE
GONZALO DE QUESADA
MANUEL SANGUILY

13. For Denmark:
C. BRUN

14. For the Dominican Republic:
DR. HENRIQUEZ Y CARVAJAL
APOLINAR TEJERA

15. For Ecuador:
VICTOR M. RENDÓN
E. DORN Y DE ALSÚA

16. For Spain:
W. R. DE VILLA URRUTIA
JOSÉ DE LA RICA Y CALVO
GABRIEL MAURA

17. For France:
LÉON BOURGEOIS
D'ESTOURNELLES DE CONSTANT
L. RENAULT
MARCELLIN PELLET

18. For Great Britain: Under reservation of Articles 6 and 21 and of the following declaration: "In affixing their signatures to this Convention, the British plenipotentiaries declare that His Majesty's Government understand Article 12 to apply only to the case of combatants rescued during or after a naval engagement in which they have taken part."
EDW. FRY
ERNEST SATOW
REAY
HENRY HOWARD

19. For Greece:
CLÉON RIZO RANGABÉ
GEORGES STREIT

20. For Guatemala:
JOSÉ TIBLE MACHADO

21. For Haiti:
DALBÉMAR JN JOSEPH
J. N. LÉGER
PIERRE HUDICOURT

22. For Italy:
POMPILJ
G. FUSINATO

23. For Japan:
AIMARO SATO

24. For Luxemburg:
EYSCHEN
CTE. DE VILLERS

25. For Mexico:
G. A. ESTEVA
S. B. DE MIER
F. L. DE LA BARRA

26. For Montenegro:
NELIDOW
MARTENS
N. TCHARYKOW

27. For Nicaragua:

28. For Norway:
F. HAGERUP

29. For Panama:
B. PORRAS

30. For Paraguay:
G. DU MONCEAU

31. For the Netherlands:
W. H. DE BEAUFORT
T. M. C. ASSER
DEN BEER POORTUGAEL
J. A. RÖELL
J. A. LOEFF

32. For Peru:
C. G. CANDAMO

33. For Persia: Under reservation of the right, admitted by the Conference, to use the Lion and Red Sun instead of and in the place of the Red Cross.
MOMTAZOS-SALTANEH M. SAMAD KHAN
SADIGH UL MULK M. AHMED KHAN

34. For Portugal:
MARQUIS DE SOVERAL
CONDE DE SELIR
ALBERTO D'OLIVEIRA

35. For Roumania:
EDG. MAVROCORDATO

36. For Russia:
NELIDOW
MARTENS
N. TCHARYKOW

37. For Salvador:
P. J. MATHEU
S. PEREZ TRIANA

38. For Servia:
S. Grouïtch
M. G. Milovanovitch
M. G. Militchevitch

39. For Siam:
Mom Chatidej Udom
C. Corragioni d'Orelli
Luang Bhüvanarth Narübal

40. For Sweden:
K. H. L. Hammarskjöld
Joh. Hellner

41. For Switzerland:
Carlin

42. For Turkey: Under reservation of the right admitted by the Peace Conference to use the Red Crescent.
Turkhan

43. For Uruguay:
José Batlle y Ordoñez

44. For Venezuela:
J. Gil Fortoul

Convention Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War (Hague XI), October 18, 1907*

* 36 Stat. 2396; T.S. 544.

October 18, 1907.

Convention between the United States and other Powers relative to certain restrictions with regard to the exercise of the right of capture in naval war. Signed at The Hague October 18, 1907; ratification advised by the Senate March 12, 1908; ratified by the President of the United States February 23, 1909; ratification deposited with the Netherlands Government November 27, 1909; proclaimed February 28, 1910.

Postal correspondence.

CHAPITRE I.—*De la Correspondance postale.*

ARTICLE PREMIER.

Inviolable on high seas.

La correspondance postale des neutres ou des belligérants, quel que soit son caractère officiel ou privé, trouvée en mer sur un navire neutre ou ennemi, est inviolable. S'il y a saisie du navire, elle est expédiée avec le moins de retard possible par le capteur.

Forwarding from captured ships.

Blockaded ports.

Les dispositions de l'alinéa précédent ne s'appliquent pas, en cas de violation de blocus, à la correspondance qui est à destination ou en provenance du port bloqué.

ARTICLE 2.

Neutral mail ships.

L'inviolabilité de la correspondance postale ne soustrait pas les paquebots-poste neutres aux lois et coutumes de la guerre sur mer concernant les navires de commerce neutres en général. Toutefois, la visite n'en doit être effectuée qu'en cas de nécessité, avec tous les ménagements et toute la célérité possibles.

Vessels exempt from capture.

CHAPITRE II.—*De l'exemption de capture pour certains bateaux.*

ARTICLE 3.

Fishing vessels and boats in local trade.

Les bateaux exclusivement affectés à la pêche côtière ou à des services de petite navigation locale sont exempts de capture, ainsi que leurs engins, agrès, appareaux et chargement.

Cette exemption cesse de leur être applicable dès qu'ils participent d'une façon quelconque aux hostilités.

Military use forbidden.

Les Puissances contractantes s'interdisent de profiter du carac-

CHAPTER I.—*Postal Correspondence.*

ARTICLE 1.

The postal correspondence of neutrals or belligerents, whatever its official or private character may be, found on the high seas on board a neutral or enemy ship, is inviolable. If the ship is detained, the correspondence is forwarded by the captor with the least possible delay.

The provisions of the preceding paragraph do not apply, in case of violation of blockade, to correspondence destined for or proceeding from a blockaded port.

ARTICLE 2.

The inviolability of postal correspondence does not exempt a neutral mail-ship from the laws and customs of maritime war as to neutral merchant-ships in general. The ship, however, may not be searched except when absolutely necessary, and then only with as much consideration and expedition as possible.

CHAPTER II.—*The Exemption from Capture of certain Vessels.*

ARTICLE 3.

Vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture, as well as their appliances, rigging, tackle, and cargo.

They cease to be exempt as soon as they take any part whatever in hostilities.

The Contracting Powers agree not to take advantage of the

tère inoffensif desdits bateaux pour les employer dans un but militaire en leur conservant leur apparence pacifique.

ARTICLE 4.

Sont également exempts de capture les navires chargés de missions religieuses, scientifiques ou philanthropiques.

CHAPITRE III.—*Du régime des équipages des navires de commerce ennemis capturés par un belligérant.*

ARTICLE 5.

Lorsqu'un navire de commerce ennemi est capturé par un belligérant, les hommes de son équipage, nationaux d'un Etat neutre, ne sont pas faits prisonniers de guerre.

Il en est de même du capitaine et des officiers, également nationaux d'un Etat neutre, s'ils promettent formellement par écrit de ne pas servir sur un navire ennemi pendant la durée de la guerre.

ARTICLE 6.

Le capitaine, les officiers et les membres de l'équipage, nationaux de l'Etat ennemi, ne sont pas faits prisonniers de guerre, à condition qu'ils s'engagent, sous la foi d'une promesse formelle écrite, à ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre.

ARTICLE 7.

Les noms des individus laissés libres dans les conditions visées à l'article 5 alinéa 2 et à l'article 6, sont notifiés par le belligérant capteur à l'autre belligérant. Il est interdit à ce dernier d'employer sciemment lesdits individus.

ARTICLE 8.

Les dispositions des trois articles précédents ne s'appliquent pas aux navires qui prennent part aux hostilités.

harmless character of the said vessels in order to use them for military purposes while preserving their peaceful appearance.

ARTICLE 4.

Vessels charged with religious, scientific, or philanthropic missions are likewise exempt from capture.

Religious, scientific, etc., vessels.

CHAPTER III.—*Regulations regarding the Crews of Enemy Merchant-ships Captured by a Belligerent.*

Captured merchant ships.

ARTICLE 5.

When an enemy merchant-ship is captured by a belligerent, such of its crew as are nationals of a neutral State are not made prisoners of war.

Disposition of crew and officers, if neutral.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

ARTICLE 6.

The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake, while hostilities last, any service connected with the operations of the war.

Conditional release of officers and crew, if enemies.

ARTICLE 7.

The names of the persons retaining their liberty under the conditions laid down in Article 5, paragraph 2, and in Article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

Notification by captors.

Supra.

ARTICLE 8.

The provisions of the three preceding Articles do not apply to ships taking part in the hostilities.

Ships not included.

CHAPITRE IV.—*Dispositions finales.*

ARTICLE 9.

Powers bound.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous Parties à la Convention.

ARTICLE 10.

Ratification.

La présente Convention sera ratifiée aussitôt que possible.

Deposit at The Hague.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Certified copies to contracting Powers.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent ainsi que des instruments de ratification, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE 11.

Adherence of non-signatory Powers.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

Notification of intent.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

CHAPTER IV.—*Final Provisions.*

ARTICLE 9.

The provisions of the present Convention do not apply except between Contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE 10.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

Subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 11.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

This Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification. Communication to other Powers.

ARTICLE 12.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE 12.

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification has been received by the Netherland Government. Effect of ratification.

ARTICLE 13.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE 13.

In the event of one the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received. Denunciation.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government. Notifying Power only affected.

ARTICLE 14.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt des ratifications effectué en vertu de l'article 10 alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (article 11 alinéa 2) ou de dénonciation (article 13 alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

ARTICLE 14.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 10, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 11, paragraph 2) or of denunciation (Article 13, paragraph 1) have been received. Register of ratifications.

Ante, p. 2410.

Supra.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention. Signing.

Deposit of original.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers invited to the Second Peace Conference.

[Here follow signatures.]

Signatures.

1. Pour l'Allemagne:
   MARSCHALL.
   KRIEGE.
2. Pour les Etats Unis d'Amérique:
   JOSEPH H. CHOATE.
   HORACE PORTER.
   U. M. ROSE.
   DAVID JAYNE HILL.
   C. S. SPERRY.
   WILLIAM I. BUCHANAN.
3. Pour l'Argentine:
   ROQUE SAENZ PEÑA.
   LUIS M. DRAGO.
   C. RÚEZ LARRETA.
4. Pour l'Autriche-Hongrie:
   MÉREY.
   Bon MACCHIO.
5. Pour la Belgique:
   A. BEERNAERT.
   VAN DEN HEUVEL.
   GUILLAUME.
6. Pour la Bolivie:
   CLAUDIO PINILLA.
7. Pour le Brésil:
   RUY BARBOSA.
   E. LISBÔA.
8. Pour la Bulgarie:
   Général Major VINAROFF.
   Iv. KARANDJOULOFF.
9. Pour le Chili:
   DOMINGO GANA.
   AUGUSTO MATTE.
   CARLOS CONCHA.
10. Pour la Chine.
11. Pour la Colombie:
    JORGE HOLGUIN.
    S. PEREZ TRIANA.
    M. VARGAS.
12. Pour la République de Cuba:
    ANTONIO S. DE BUSTAMANTE.
    GONZALO DE QUESADA.
    MANUEL SANGUILY.
13. Pour le Danemark:
    C. BRUN.
14. Pour la République Dominicaine:
    dr. HENRIQUEZ Y CARVAJAL.
    APOLINAR TEJERA.
15. Pour l'Équateur:
    VICTOR M. RENDON.
    E. DORN Y DE ALSÚA.

Signatures—Cont'd.

35. Pour la Roumanie:
EDG. MAVROCORDATO.
36. Pour la Russie.
37. Pour le Salvador:
P. J. MATHIEU.
S. PEREZ TRIANA.
38. Pour la Serbie:
S. GROUÏTCH.
M. G. MILOVANOVITCH.
M. G. MILITCHEVITCH.
39. Pour le Siam:
MOM CHATIDEJ UDOM.
C. CORRAGIONO D'ORELLI.
LUANG BHÜVANARTH NARÜBAL.
40. Pour la Suède:
JOH. HELLNER.
41. Pour la Suisse:
CARLIN.
42. Pour la Turquie:
TURKHAN.
43. Pour l'Uruguay:
JOSÉ BATLLE Y ORDOÑEZ.
44. Pour le Vénézuéla:
J. GIL FORTOUL.

Certifié pour copie conforme:
Le Secrétaire-Général du Ministère des Affaires Etrangères des Pays-Bas,
HANNEMA.

Ratification.

And whereas the said Convention has been duly ratified by the Government of the United States of America, by and with the advice and consent of the Senate thereof, and by the Governments of Germany, Austria-Hungary, Denmark, Great Britain, Mexico, the Netherlands, Sweden, and Salvador, and the ratifications of the said Governments were, under the provisions of Article 10 of the said Convention, deposited by their respective Plenipotentiaries with the Netherlands Government on November 27, 1909;

Ante, p. 2410.

Proclamation.

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said Convention 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 testimony 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 twenty-eighth day of February in the year of our Lord one thousand nine hundred and ten, and of the Independence of the United States of America the one hundred and thirty-fourth.

[SEAL.]

WM H TAFT

By the President:
P C KNOX
Secretary of State.

Convention Concerning the Rights and Duties of Neutral Powers in Naval War (Hague XIII), October 18, 1907*

* 36 Stat. 2415; T.S. 545.

October 18, 1907.

Convention between the United States and other Powers concerning the rights and duties of neutral Powers in naval war. Signed at The Hague October 18, 1907; adherence advised by the Senate April 17, 1908; adherence declared by the President of the United States February 23, 1909; ratification deposited with the Netherlands Government November 27, 1909; proclaimed February 28, 1910.

ARTICLE PREMIER.

Les belligérants sont tenus de respecter les droits souverains des Puissances neutres et de s'abstenir, dans le territoire ou les eaux neutres, de tous actes qui constitueraient de la part des Puissances qui les tolèreraient un manquement à leur neutralité.

ARTICLE 2.

Tous actes d'hostilité, y compris la capture et l'exercice du droit de visite, commis par des vaisseaux de guerre belligérants dans les eaux territoriales d'une Puissance neutre, constituent une violation de la neutralité et sont strictement interdits.

ARTICLE 3.

Quand un navire a été capturé dans les eaux territoriales d'une Puissance neutre, cette Puissance doit, si la prise est encore dans sa juridiction, user des moyens dont elle dispose pour que la prise soit relâchée avec ses officiers et son équipage, et pour que l'équipage mis à bord par le capteur soit interné.

Si la prise est hors de la juridiction de la Puissance neutre, le Gouvernement capteur, sur la demande de celle-ci, doit relâcher la prise avec ses officiers et son équipage.

ARTICLE 4.

Aucun tribunal des prises ne peut être constitué par un belligérant sur un territoire neutre ou sur un navire dans des eaux neutres.

ARTICLE 5.

Il est interdit aux belligérants de faire des ports et des eaux neutres la base d'opérations navales contre leurs adversaires, notamment d'y installer des stations radio-télégraphiques ou tout appareil destiné à servir comme moyen de communication avec des forces belligérantes sur terre ou sur mer.

ARTICLE 1.

Belligerents to respect rights of neutral Powers.

Belligerents are bound to respect the sovereign rights of neutral Powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any Power, constitute a violation of neutrality.

ARTICLE 2.

Hostile acts in neutral waters forbidden.

Any act of hostility, including capture and the exercise of the right of search, committed by belligerent war-ships in the territorial waters of a neutral Power, constitutes a violation of neutrality and is strictly forbidden.

ARTICLE 3.

Release of ships captured.
By neutral Power.

When a ship has been captured in the territorial waters of a neutral Power, this Power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew, and to intern the prize crew.

By captor Government.

If the prize is not in the jurisdiction of the neutral Power, the captor Government, on the demand of that Power, must liberate the prize with its officers and crew.

ARTICLE 4.

Prize courts forbidden in neutral territory.

A Prize Court cannot be set up by a belligerent on neutral territory or on a vessel in neutral waters.

ARTICLE 5.

Use of neutral ports by belligerents forbidden.

Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.

ARTICLE 6.

War supplies to belligerents forbidden.

La remise, à quelque titre que ce soit, faite directement ou indirectement par une Puissance neutre à une Puissance belligérante, de vaisseaux de guerre, de munitions, ou d'un matériel de guerre quelconque, est interdite.

ARTICLE 6.

The supply, in any manner, directly or indirectly, by a neutral Power to a belligerent Power, of war-ships, ammunition, or war material of any kind whatever, is forbidden.

ARTICLE 7.

Right of export, etc., allowed.

Une Puissance neutre n'est pas tenue d'empêcher l'exportation ou le transit, pour le compte de l'un ou de l'autre des belligérants, d'armes, de munitions, et, en général, de tout ce qui peut être utile à une armée ou à une flotte.

ARTICLE 7.

A neutral Power is not bound to prevent the export or transit, for the use of either belligerent, of arms, ammunitions, or, in general, of anything which could be of use to an army or fleet.

ARTICLE 8.

Arming, etc., for hostile use to be prevented by neutral.

Un Gouvernement neutre est tenu d'user des moyens dont il dispose pour empêcher dans sa juridiction l'équipement ou l'armement de tout navire, qu'il a des motifs raisonnables de croire destiné à croiser ou à concourir à des opérations hostiles contre une Puissance avec laquelle il est en paix. Il est aussi tenu d'user de la même surveillance pour empêcher le départ hors de sa juridiction de tout navire destiné à croiser ou à concourir à des opérations hostiles, et qui aurait été, dans ladite juridiction adapté en tout ou en partie à des usages de guerre.

ARTICLE 8.

A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations, against a Power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war.

ARTICLE 9.

Impartiality to belligerents.

Une Puissance neutre doit appliquer également aux deux belligérants les conditions, restrictions ou interdictions, édictées par elle pour ce qui concerne l'admission dans ses ports, rades ou eaux territoriales, des navires de guerre belligérants ou de leurs prises.

Prohibitions allowed.

Toutefois, une Puissance neutre peut interdire l'accès de ses ports et de ses rades au navire belligérant qui aurait négligé de se conformer aux ordres et prescriptions édictés par elle ou qui aurait violé la neutralité.

ARTICLE 9.

A neutral Power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent war-ships or of their prizes.

Nevertheless, a neutral Power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.

ARTICLE 10.

La neutralité d'une Puissance n'est pas compromise par le simple passage dans ses eaux territoriales des navires de guerre et des prises des belligérants.

ARTICLE 10.

Passing through neutral waters allowed.

The neutrality of a Power is not affected by the mere passage through its territorial waters of war-ships or prizes belonging to belligerents.

ARTICLE 11.

Une Puissance neutre peut laisser les navires de guerre des belligérants se servir de ses pilotes brevetés.

ARTICLE 11.

Pilots.

A neutral Power may allow belligerent war-ships to employ its licensed pilots.

ARTICLE 12.

A défaut d'autres dispositions spéciales de la législation de la Puissance neutre, il est interdit aux navires de guerre des belligérants de demeurer dans les ports et rades ou dans les eaux territoriales de ladite Puissance, pendant plus de 24 heures, sauf dans les cas prévus par la présente Convention.

ARTICLE 12.

Temporary stay in ports.

In the absence of special provisions to the contrary in the legislation of a neutral Power, belligerent war-ships are not permitted to remain in the ports, roadsteads, or territorial waters of the said Power for more than twenty-four hours, except in the cases covered by the present Convention.

ARTICLE 13.

Si une Puissance avisée de l'ouverture des hostilités apprend qu'un navire de guerre d'un belligérant se trouve dans un de ses ports et rades ou dans ses eaux territoriales, elle doit notifier audit navire qu'il devra partir dans les 24 heures ou dans le délai prescrit par la loi locale.

ARTICLE 13.

Departure of war ships on outbreak of hostilities.

If a Power which has been informed of the outbreak of hostilities learns that a belligerent war-ship is in one of its ports or roadsteads, or in its territorial waters, it must notify the said ship to depart within twenty-four hours or within the time prescribed by local regulations.

ARTICLE 14.

Un navire de guerre belligérant ne peut prolonger son séjour dans un port neutre au delà de la durée légale que pour cause d'avaries ou à raison de l'état de la mer. Il devra partir dès que la cause du retard aura cessé.

Les règles sur la limitation du séjour dans les ports, rades et eaux neutres, ne s'appliquent pas aux navires de guerre exclusivement affectés à une mission religieuse, scientifique ou philanthropique.

ARTICLE 14.

Detention by reason of damage, etc.

A belligerent war-ship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.

Vessels permitted to remain.

The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters, do not apply to war-ships devoted exclusively to religious, scientific, or philanthropic purposes.

ARTICLE 15.

Maximum of war ships allowed in ports.

A défaut d'autres dispositions spéciales de la législation de la Puissance neutre, le nombre maximum des navires de guerre d'un belligérant qui pourront se trouver en même temps dans un de ses ports ou rades, sera de trois.

ARTICLE 15.

In the absence of special provisions to the contrary in the legislation of a neutral Power, the maximum number of war-ships belonging to a belligerent which may be in one of the ports or roadsteads of that Power simultaneously shall be three.

ARTICLE 16.

Departure of war ships of both belligerents.

Lorsque des navires de guerre des deux parties belligérantes se trouvent simultanément dans un port ou une rade neutres, il doit s'écouler au moins 24 heures entre le départ du navire d'un belligérant et le départ du navire de l'autre.

Order of departure.

L'ordre des départs est déterminé par l'ordre des arrivées, à moins que le navire arrivé le premier ne soit dans le cas où la prolongation de la durée légale du séjour est admise.

Allowance to merchant ships.

Un navire de guerre belligérant ne peut quitter un port ou une rade neutres moins de 24 heures après le départ d'un navire de commerce portant le pavillon de son adversaire.

ARTICLE 16.

When war-ships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than twenty-four hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other.

The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible.

A belligerent war-ship may not leave a neutral port or roadstead until twenty-four hours after the departure of a merchant-ship flying the flag of its adversary.

ARTICLE 17.

Repairs permitted war ships.

Dans les ports et rades neutres, les navires de guerre belligérants ne peuvent réparer leurs avaries que dans la mesure indispensable à la sécurité de leur navigation et non pas accroître, d'une manière quelconque, leur force militaire. L'autorité neutre constatera la nature des réparations à effectuer qui devront être exécutées le plus rapidement possible.

ARTICLE 17.

In neutral ports and roadsteads belligerent war-ships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The local authorities of the neutral Power shall decide what repairs are necessary, and these must be carried out with the least possible delay.

ARTICLE 18.

Use of neutral ports, etc., by war ships forbidden.

Les navires de guerre belligérants ne peuvent pas se servir des ports, rades et eaux territoriales neutres, pour renouveler ou augmenter leurs approvisionnements militaires ou leur armement ainsi que pour compléter leurs équipages.

ARTICLE 18.

Belligerent war-ships may not make use of neutral ports, roadsteads, or territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.

ARTICLE 19.

Les navires de guerre belligérants ne peuvent se ravitailler dans les ports et rades neutres que pour compléter leur approvisionnement normal du temps de paix.

Ces navires ne peuvent, de même, prendre du combustible que pour gagner le port le plus proche de leur propre pays. Ils peuvent, d'ailleurs, prendre le combustible nécessaire pour compléter le plein de leurs soutes proprement dites, quand ils se trouvent dans les pays neutres qui ont adopté ce mode de détermination du combustible à fournir.

Si, d'après la loi de la Puissance neutre, les navires ne reçoivent du charbon que 24 heures après leur arrivée, la durée légale de leur séjour est prolongée de 24 heures.

ARTICLE 20.

Les navires de guerre belligérants, qui ont pris du combustible dans le port d'une Puissance neutre, ne peuvent renouveler leur approvisionnement qu'après trois mois dans un port de la même Puissance.

ARTICLE 21.

Une prise ne peut être amenée dans un port neutre que pour cause d'innavigabilité, de mauvais état de la mer, de manque de combustible ou de provisions.

Elle doit repartir aussitôt que la cause qui en a justifié l'entrée a cessé. Si elle ne le fait pas, la Puissance neutre doit lui notifier l'ordre de partir immédiatement; au cas où elle ne s'y conformerait pas, la Puissance neutre doit user des moyens dont elle dispose pour la relâcher avec ses officiers et son équipage et interner l'équipage mis à bord par le capteur.

ARTICLE 22.

La Puissance neutre doit, de même, relâcher la prise qui aurait été amenée en dehors des conditions prévues par l'article 21.

ARTICLE 19.

Revictualing permitted.

Belligerent war-ships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Fuel.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

Time for coaling.

If, in accordance with the law of the neutral Power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of their stay is extended by twenty-four hours.

ARTICLE 20.

Restriction on recoaling.

Belligerent war-ships which have shipped fuel in a port belonging to a neutral Power may not within the succeeding three months replenish their supply in a port of the same Power.

ARTICLE 21.

When prizes may enter neutral ports.

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

Duration of stay.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral Power must order it to leave at once; should it fail to obey, the neutral Power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.

ARTICLE 22.

Release of prizes.

A neutral Power must, similarly, release a prize brought into one of its ports under circumstances other than those referred to in Article 21.

Supra.

ARTICLE 23.

Sequestration of prizes.

Une Puissance neutre peut permettre l'accès de ses ports et rades aux prises escortées ou non, lorsqu'elles y sont amenées pour être laissées sous sequestre en attendant la décision du tribunal des prises. Elle peut faire conduire la prise dans un autre de ses ports.

Prize crews.

Si la prise est escortée par un navire de guerre, les officiers et les hommes mis à bord par le capteur sont autorisés à passer sur le navire d'escorte.

Si la prise voyage seule, le personnel placé à son bord par le capteur est laissé en liberté.

ARTICLE 23.

A neutral Power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestrated pending the decision of a Prize Court. It may have the prize taken to another of its ports.

If the prize is convoyed by a war-ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

ARTICLE 24.

Detention of war ships refusing to leave.

Si, malgré la notification de l'autorité neutre, un navire de guerre belligérant ne quitte pas un port dans lequel il n'a pas le droit de rester, la Puissance neutre a le droit de prendre les mesures qu'elle pourra juger nécessaires pour rendre le navire incapable de prendre la mer pendant la durée de la guerre et le commandant du navire doit faciliter l'exécution de ces mesures.

Officers and crew.

Lorsqu'un navire belligérant est retenu par une Puissance neutre, les officiers et l'équipage sont également retenus.

Disposition.

Les officiers et l'équipage ainsi retenus peuvent être laissés dans le navire ou logés, soit sur un autre navire, soit à terre, et ils peuvent être assujettis aux mesures restrictives qu'il paraîtrait nécessaire de leur imposer. Toutefois, on devra toujours laisser sur le navire les hommes nécessaires à son entretien.

Officers paroled.

Les officiers peuvent être laissés libres en prenant l'engagement sur parole de ne pas quitter le territoire neutre sans autorisation.

ARTICLE 24.

If, notwithstanding the notification of the neutral Power, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral Power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.

When a belligerent ship is detained by a neutral Power, the officers and crew are likewise detained.

The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restriction which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board.

The officers may be left at liberty on giving their word not to quit the neutral territory without permission.

ARTICLE 25.

Surveillance of neutral Powers.

Une Puissance neutre est tenue d'exercer la surveillance, que comportent les moyens dont elle dispose, pour empêcher dans ses ports ou rades et dans ses eaux toute violation des dispositions qui précèdent.

ARTICLE 25.

A neutral Power is bound to exercise such surveillance as the means at its disposal allow to prevent any violation of the provisions of the above Articles occurring in its ports or roadsteads or in its waters.

ARTICLE 26.

L'exercice par une Puissance neutre des droits définis par la présente Convention ne peut jamais être considéré comme un acte peu amical par l'un ou par l'autre belligérant qui a accepté les articles qui s'y réfèrent.

ARTICLE 26.

The exercise by a neutral Power of the rights laid down in the present Convention can under no circumstances be considered as an unfriendly act by one or other belligerent who has accepted the Articles relating thereto.

Exercise of neutral rights not an unfriendly act.

ARTICLE 27.

Les Puissances contractantes se communiqueront réciproquement, en temps utile, toutes les lois, ordonnances et autres dispositions réglant chez elles le régime des navires de guerre belligérants dans leurs ports et leurs eaux, au moyen d'une notification adressée au Gouvernement des Pays-Bas et transmise immédiatement par celui-ci aux autres Puissances contractantes.

ARTICLE 27.

The Contracting Powers shall communicate to each other in due course all Laws, Proclamations, and other enactments regulating in their respective countries the status of belligerent warships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately by that Government to the other Contracting Powers.

Promulgation of laws, etc., in force.

ARTICLE 28.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE 28.

The provisions of the present Convention do not apply except to the Contracting Powers, and then only if all the belligerents are parties to the Convention.

Contracting Powers only affected.

ARTICLE 29.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Étrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième

ARTICLE 29.

Ratification.

The present Convention shall be ratified as soon as possible.

Deposit at The Hague.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

Certified copies to Powers.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the ratifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Con-

Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

ARTICLE 30.

Adhesion of non-signatory Powers.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

Notification of intent.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Communication to other Powers.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE 30.

Non-Signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

That Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 31.

Effect of ratification.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt des ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE 31.

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of the ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers who ratify subsequently or who adhere, sixty days after the notification of their ratification or of their decision has been received by the Netherland Government.

ARTICLE 32.

Denunciation.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

Notifying Power only affected.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE 32.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has been made to the Netherland Government.

ARTICLE 33.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'article 29 alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (article 30 alinéa 2) ou de dénonciation (article 32 alinéa 1).

Chaque Puissance contractante est admise à prendre connaisance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

1. Pour l'Allemagne. Sous réserve des articles 11, 12, 13 et 20:
   MARSCHALL.
   KRIEGE.
2. Pour les Etats Unis d'Amérique.
3. Pour l'Argentine:
   ROQUE SAENZ PEÑA.
   LÚIS M. DRAGO.
   C. RÚEZ LARRETA.
4. Pour l'Autriche-Hongrie:
   MÉREY.
   Bon MACCHIO.
5. Pour la Belgique:
   A. BEERNAERT.
   V. VAN DEN HEUVEL.
   GUILLAUME.
6. Pour la Bolivie:
   CLAUDIO PINILLA.
7. Pour le Brésil:
   RUY BARBOSA.
   E. LISBÔA.
8. Pour la Bulgarie:
   Général-Major VINAROFF.
   Iv. KARANDJOULOFF.
9. Pour le Chili:
   DOMINGO GANA.
   AUGUSTO MATTE.
   CARLOS CONCHA.

ARTICLE 33.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made by Article 29, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 30, paragraph 2) or of denunciation (Article 32, paragraph 1) have been received. Register.

Ante, p. 2433.

Ante, p. 2434.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention. Signing.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference. Deposit of original.

[Here follow signatures.] Signatures.

Declaration Concerning the Laws of Naval Warfare, February 26, 1909*

* 3 Treaties, Conventions, International Acts, Protocols and Agreements Between the United States and Other Powers, 268, Committee on Foreign Relations, U.N. Senate, (1913).

[Translation.]

DECLARATION CONCERNING THE LAWS OF NAVAL WARFARE.

HIS Majesty the German Emperor, King of Prussia; the President of the United States of America; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the Emperor of All the Russias.

Having regard to the terms in which the British Government invited various Powers to meet in conference in order to arrive at an agreement as to what are the generally recognized rules of international law within the meaning of Article 7 of the Convention of 18th October, 1907, relative to the establishment of an International Prize Court;

Recognizing all the advantages which an agreement as to the said rules would, in the unfortunate event of a naval war, present, both as regards peaceful commerce, and as regards the belligerents and their diplomatic relations with neutral Governments;

Having regard to the divergence often found in the methods by which it is sought to apply in practice the general principles of international law;

Animated by the desire to insure henceforward a greater measure of uniformity in this respect;

Hoping that a work so important to the common welfare will meet with general approval;

Have appointed as their Plenipotentiaries, that is to say:

His Majesty the German Emperor, King of Prussia:

M. Kriege, Privy Councillor of Legation and Legal Adviser to the Department for Foreign Affairs, Member of the Permanent Court of Arbitration.

The President of the United States of America:

Rear-Admiral Charles H. Stockton, retired;

Mr. George Grafton Wilson, Professor at Brown University and Lecturer on International Law at the Naval War College and at Harvard University.

His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary:

His Excellency M. Constantin Thoédore Dumba, Privy Councillor of His Imperial and Royal Apostolic Majesty, Envoy Extraordinary and Minister Plenipotentiary.

His Majesty the King of Spain:

M. Gabriel Maura y Gamazo, Count de la Mortera, Member of Parliament.

The President of the French Republic:

M. Louis Renault, Professor of the Faculty of Law at Paris, Honorary Minister Plenipotentiary, Legal Adviser to the Ministry of Foreign Affairs, Member of the Institute of France, Member of the Permanent Court of Arbitration.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India:

The Earl of Desart, K. C. B., King's Proctor.

His Majesty the King of Italy:

M. Guido Fusinato, Councillor of State, Member of Parliament, ex-Minister of Public Instruction, Member of the Permanent Court of Arbitration.

His Majesty the Emperor of Japan:

Baron Toshiatsu Sakamoto, Vice-Admiral, Head of the Department of Naval Instruction.

M. Enjiro Yamaza, Councillor of the Imperial Embassy at London.

Her Majesty the Queen of the Netherlands:

His Excellency Jonkheer J. A. Roell, Aide-de-Camp to Her Majesty the Queen in Extraordinary Service, Vice-Admiral retired, ex-Minister of Marine.

Jonkheer L. H. Ruyssenaers, Envoy Extraordinary and Minster Plenipotentiary, ex-Secretary-General of the Permanent Court of Arbitration.

His Majesty the Emperor of all the Russias:

Baron Taube, Doctor of Laws, Councillor to the Imperial Ministry of Foreign Affairs, Professor of International Law at the University of St. Petersburgh.

Who, after having communicated their full powers, found to be in good and due form, have agreed to make the present Declaration:—

PRELIMINARY PROVISION.

The Signatory Powers are agreed that the rules contained in the following Chapters correspond in substance with the generally recognized principles of international law.

CHAPTER I. BLOCKADE IN TIME OF WAR.

ARTICLE 1.

A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy.

ARTICLE 2.

In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective,—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coastline.

ARTICLE 3.

The question whether a blockade is effective is a question of fact.

ARTICLE 4.

A blockade is not regarded as raised if the blockading force is temporarily withdrawn on account of stress of weather.

ARTICLE 5.

A blockade must be applied impartially to the ships of all nations.

ARTICLE 6.

The Commander of a blockading force may give permission to a warship to enter, and subsequently to leave, a blockaded port.

ARTICLE 7.

In circumstances of distress, acknowledged by an officer of the blockading force, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there.

ARTICLE 8.

A blockade, in order to be binding, must be declared in accordance with Article 9, and notified in accordance with Articles 11 and 16.

ARTICLE 9.

A declaration of blockade is made either by the blockading Power or by the naval authorities acting in its name.

It specifies—

(1) The date when the blockade begins;

(2) The geographical limits of the coastline under blockade;

(3) The period within which neutral vessels may come out.

ARTICLE 10.

If the operations of the blockading Power, or of the naval authorities acting in its name, do not tally with the particulars, which, in accordance with Article 9 (1) and (2), must be inserted in the declaration of blockade, the declaration is void, and a new declaration is necessary in order to make the blockade operative.

ARTICLE 11.

A declaration of blockade is notified—

(1) To neutral Powers, by the blockading Power by means of a communication addressed to the Government direct, or to their representatives accredited to it;

(2) To the local authorities, by the officer commanding the blockading force. The local authorities will, in turn, inform the foreign consular officers at the port or on the coastline under blockade as soon as possible.

ARTICLE 12.

The rules as to declaration and notification of blockade apply to cases where the limits of a blockade are extended, or where a blockade is re-established after having been raised.

ARTICLE 13.

The voluntary raising of a blockade, as also any restriction in the limits of a blockade, must be notified in the manner prescribed by Article 11.

ARTICLE 14.

The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade.

ARTICLE 15.

Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade to the Power to which such port belongs, provided that such notification was made in sufficient time.

ARTICLE 16.

If a vessel approaching a blockaded port has no knowledge, actual or presumptive, of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. This notification should be entered in the vessel's logbook, and must state the day and hour, and the geographical position of the vessel at the time.

If, through the negligence of the officer commanding the blockading force, no declaration of blockade has been notified to the local authorities, or, if in the declaration, as notified, no period has been mentioned within which neutral vessels may come out, a neutral vessel coming out of the blockaded port must be allowed to pass free.

ARTICLE 17.

Neutral vessels may not be captured for breach of blockade except within the area of operations of the warships detailed to render the blockade effective.

ARTICLE 18.

The blockading forces must not bar access to neutral ports or coasts.

ARTICLE 19.

Whatever may be the ulterior destination of a vessel or of her cargo, she cannot be captured for breach of blockade, if, at the moment, she is on her way to a non-blockaded port.

ARTICLE 20.

A vessel which has broken blockade outwards, or which has attempted to break blockade inwards, is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.

ARTICLE 21.

A vessel found guilty of breach of blockade is liable to condemnation. The cargo is also condemned, unless it is proved that at the time of the shipment of the goods the shipper neither knew nor could have known of the intention to break the blockade.

CHAPTER II.—CONTRABAND OF WAR.

ARTICLE 22.

The following articles may, without notice,[a] be treated as contraband of war, under the name of absolute contraband:—

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

(3) Powder and explosives specially prepared for use in war.

(4) Gun-mountings, limber boxes, limbers, military waggons, field forges, and their distinctive component parts.

(5) Clothing and equipment of a distinctively military character.

(6) All kinds of harness of a distinctively military character.

(7) Saddle, draught, and pack animals suitable for use in war.

(8) Articles of camp equipment, and their distinctive component parts.

(9) Armour plates.

(10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.

(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

ARTICLE 23.

Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other Powers, or to their representatives accredited to the Power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral Powers.

ARTICLE 24.

The following articles, susceptible of use in war as well as for purposes of peace, may, without notice,[b] be treated as contraband of war, under the name of conditional contraband:—

(1) Foodstuffs.

(2) Forage and grain, suitable for feeding animals.

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[a] In view of the difficulty of finding an exact equivalent in English for the expression "de plein droit," it has been decided to translate it by the words "without notice," which represent the meaning attached to it by the draftsman as appears from the General Report (see p. 44).

[b] See note on Article 22.

(3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
(4) Gold and silver in coin or bullion; paper money.
(5) Vehicles of all kinds available for use in war, and their component parts.
(6) Vessels, craft, and boats of all kinds; floating docks, parts of docks and their component parts.
(7) Railway material, both fixed and rolling-stock, and material for telegraphs, wireless telegraphs, and telephones.
(8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.
(9) Fuel; lubricants.
(10) Powder and explosives not specially prepared for use in war.
(11) Barbed wire and implements for fixing and cutting the same.
(12) Horseshoes and shoeing materials.
(13) Harness and saddlery.
(14) Field Glasses, telescopes, chronometers, and all kinds of nautical instruments.

ARTICLE 25.

Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in Articles 22 and 24, may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

ARTICLE 26.

If a Power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in Articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

ARTICLE 27.

Articles which are not susceptible of use in war may not be declared contraband of war.

ARTICLE 28.

The following may not be declared contraband of war:—
(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.
(2) Oil seeds and nuts; copra.
(3) Rubber, resins, gums, and lacs; hops.
(4) Raw hides and horns, bones and ivory.
(5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.
(6) Metallic ores.
(7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.
(8) Chinaware and glass.
(9) Paper and paper-making materials.

(10) Soap, paint and colours, including articles exclusively used in their manufacture, and varnish.
(11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
(12) Agricultural, mining, textile, and printing machinery.
(13) Precious and semi-precious stones, pearls, mother-of-pearl, and coral.
(14) Clocks and watches, other than chronometers.
(15) Fashion and fancy goods.
(16) Feathers of all kinds, hairs, and bristles.
(17) Articles of household furniture and decoration; office furniture and requisites.

ARTICLE 29.

Likewise the following may not be treated as contraband of war:
(1) Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article 30.
(2) Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.

ARTICLE 30.

Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land.

ARTICLE 31.

Proof of the destination specified in Article 30 is complete in the following cases:—
(1) When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.
(2) When the vessel is to call at enemy ports only, or when she is to touch at an enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

ARTICLE 32.

Where a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers and unable to give adequate reasons to justify such deviation.

ARTICLE 33.

Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances show that the goods cannot in fact be used for the purposes of the

war in progress. This latter exception does not apply to a consignment coming under Article 24 (4).

ARTICLE 34.

The destination referred to in Article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise, the destination is presumed to be innocent.

The presumptions set up by this Article may be rebutted.

ARTICLE 35.

Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

ARTICLE 36.

Notwithstanding the provisions of Article 35, conditional contraband, if shown to have the destination referred to in Article 33, is liable to capture in cases where the enemy country has no seaboard.

ARTICLE 37.

A vessel carrying goods liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole of her voyage, even if she is to touch at a port of call before reaching the hostile destination.

ARTICLE 38.

A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.

ARTICLE 39.

Contraband goods are liable to condemnation.

76844°—S. Doc. 1063, 62-3——19

ARTICLE 40.

A vessel carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

ARTICLE 41.

If a vessel carrying contraband is released, she may be condemned to pay the costs and expenses incurred by the captor in respect of the proceedings in the national prize court and the custody of the ship and cargo during the proceedings.

ARTICLE 42.

Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.

ARTICLE 43.

If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband cannot be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in Article 41. The same rule applies if the master, after becoming aware of the outbreak of hostilities, or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war, or of a declaration of contraband, if she left a neutral port subsequently to the notification to the Power to which such port belongs of the outbreak of hostilities or of the declaration of contraband respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.

ARTICLE 44.

A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the logbook of the vessel stopped and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under these conditions.

CHAPTER III.—UNNEUTRAL SERVICE.

ARTICLE 45.

A neutral vessel will be condemned and will, in a general way, receive the same treatment as a neutral vessel liable to condemnation for carriage of contraband:—

(1) If she is on a voyage specially undertaken with a view to the transport of individual passengers who are embodied in the armed

forces of the enemy, or with a view to the transmission of intelligence in the interest of the enemy.

(2) If, to the knowledge of either the owner, the charterer, or the master, she is transporting a military detachment of the enemy, or one or more persons who, in the course of the voyage, directly assist the operations of the enemy.

In the cases specified under the above heads, goods belonging to the owner of the vessel are likewise liable to condemnation.

The provisions of the present Article do not apply if the vessel is encountered at sea while unaware of the outbreak of hostilities, or if the master, after becoming aware of the outbreak of hostilities, has had no opportunity of disembarking the passengers. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port subsequently to the outbreak of hostilities, or a neutral port subsequently to the notification of the outbreak of hostilities to the Power to which such port belongs, provided that such notification was made in sufficient time.

Article 46.

A neutral vessel will be condemned and, in a general way, receive the same treatment as would be applicable to her if she were an enemy merchant vessel:

(1) If she takes a direct part in the hostilities;

(2) If she is under the orders or control of an agent placed on board by the enemy Government;

(3) If she is in the exclusive employment of the enemy Government;

(4) If she is exclusively engaged at the time either in the transport of enemy troops or in the transmission of intelligence in the interest of the enemy.

In the cases covered by the present Article, goods belonging to the owner of the vessel are likewise liable to condemnation.

Article 47.

Any individual embodied in the armed forces of the enemy who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.

Chapter IV.—Destruction of neutral prizes.

Article 48.

A neutral vessel which has been captured may not be destroyed by the captor; she must be taken into such port as is proper for the determination there of all questions concerning the validity of the capture.

Article 49.

As an exception, a neutral vessel which has been captured by a belligerent warship, and which would be liable to condemnation, may be destroyed if the observance of Article 48 would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time.

ARTICLE 50.

Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the warship.

ARTICLE 51.

A captor who has destroyed a neutral vessel must, prior to any decision respecting the validity of the prize, establish that he only acted in the face of an exceptional necessity of the nature contemplated in Article 49. If he fails to do this, he must compensate the parties interested and no examination shall be made of the question whether the capture was valid or not.

ARTICLE 52.

If the capture of a neutral vessel is subsequently held to be invalid, though the act of destruction has been held to have been justifiable, the captor must pay compensation to the parties interested, in place of the restitution to which they would have been entitled.

ARTICLE 53.

If neutral goods not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.

ARTICLE 54.

The captor has the right to demand the handing over, or to proceed himself to the destruction of, any goods liable to condemnation found on board a vessel not herself liable to condemnation, provided that the circumstances are such as would, under Article 49, justify the destruction of a vessel herself liable to condemnation. The captor must enter the goods surrendered or destroyed in the logbook of the vessel stopped, and must obtain duly certified copies of all relevant papers. When the goods have been handed over or destroyed, and the formalities duly carried out, the master must be allowed to continue his voyage.

The provisions of Articles 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.

CHAPTER V.—TRANSFER TO A NEUTRAL FLAG.

ARTICLE 55.

The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of, the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.

ARTICLE 56.

The transfer of an enemy vessel to a neutral flag effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void:

(1) If the transfer has been made during a voyage or in a blockaded port.

(2) If a right to repurchase or recover the vessel is reserved to the vendor.

(3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.

CHAPTER VI.—ENEMY CHARACTER.

ARTICLE 57.

Subject to the provisions respecting transfer to another flag, the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

The case where a neutral vessel is engaged in a trade which is closed in time of peace, remains outside the scope of, and is in no wise affected by, this rule.

ARTICLE 58.

The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.

ARTICLE 59.

In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods.

ARTICLE 60.

Enemy goods on board an enemy vessel retain their enemy character until they reach their destination, notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character.

Chapter VII.—Convoy.

Article 61.

Neutral vessels under national convoy are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent warship, all information as to the character of the vessels and their cargoes, which could be obtained by search.

Article 62.

If the commander of the belligerent warship has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to investigate the matter. He must record the result of such investigation in a report, of which a copy is handed to the officer of the warship. If, in the opinion of the commander of the convoy, the facts shown in the report justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.

Chapter VIII.—Resistance to search.

Article 63.

Forcible resistance to the legitimate exercise of the right of stoppage, search, and capture, involves in all cases the condemnation of the vessel. The cargo is liable to the same treatment as the cargo of an enemy vessel. Goods belonging to the master or owner of the vessel are treated as enemy goods.

Chapter IX.—Compensation.

Article 64.

If the capture of a vessel or of goods is not upheld by the prize court, or if the prize is released without any judgment being given, the parties interested have the right to compensation, unless there were good reasons for capturing the vessel or goods.

Final Provisions.

Article 65.

The provisions of the present Declaration must be treated as a whole, and cannot be separated.

Article 66.

The Signatory Powers undertake to insure the mutual observance of the rules contained in the present Declaration in any war in which all the belligerents are parties thereto. They will therefore issue the necessary instructions to their authorities and to their armed forces,

and will take such measures as may be required in order to insure that it will be applied by their courts, and more particularly by their prize courts.

ARTICLE 67.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited in London.

The first deposit of ratifications shall be recorded in a Protocol signed by the Representatives of the Powers taking part therein, and by His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the British Government, and accompanied by the instrument of ratification.

A duly certified copy of the Protocol relating to the first deposit of ratifications, and of the notifications mentioned in the preceding paragraph as well as of the instruments of ratification which accompany them, shall be immediately sent by the British Government, through the diplomatic channel, to the Signatory Powers. The said Government shall, in the cases contemplated in the preceding paragraph, inform them at the same time of the date on which it received the notification.

ARTICLE 68.

The present Declaration shall take effect, in the case of the Powers which were parties to the first deposit of ratifications, sixty days after the date of the Protocol recording such deposit, and, in the case of the Powers which shall ratify subsequently, sixty days after the notification of their ratification shall have been received by the British Government.

ARTICLE 69.

In the event of one of the Signatory Powers wishing to denounce the present Declaration, such denunciation can only be made to take effect at the end of a period of twelve years, beginning sixty days after the first deposit of ratifications, and, after that time, at the end of successive periods of six years, of which the first will begin at the end of the period of twelve years.

Such denunciation must be notified in writing, at least one year in advance, to the British Government, which shall inform all the other Powers.

It will only operate in respect of the denouncing Power.

ARTICLE 70.

The Powers represented at the London Naval Conference attach particular importance to the general recognition of the rules which they have adopted, and therefore express the hope that the Powers which were not represented there will accede to the present Declaration. They request the British Government to invite them to do so.

A Power which desires to accede shall notify its intention in writing to the British Government, and transmit simultaneously the

act of accession, which will be deposited in the archives of the said Government.

The said Government shall forthwith transmit to all the other Powers a duly certified copy of the notification, together with the act of accession, and communicate the date on which such notification was received. The accession takes effect sixty days after such date.

In respect of all matters concerning this Declaration, acceding Powers shall be on the same footing as the Signatory Powers.

ARTICLE 71.

The present Declaration, which bears the date of the 26th February, 1909, may be signed in London up till the 30th June, 1909, by the Plenipotentiaries of the Powers represented at the Naval Conference.

In faith whereof the Plenipotentiaries have signed the present Declaration, and have thereto affixed their seals.

Done at London, the twenty-sixth day of February, one thousand nine hundred and nine, in a single original, which shall remain deposited in the archives of the British Government, and of which duly certified copies shall be sent through the diplomatic channel to the Powers represented at the Naval Conference.

(Here follow the signatures.)

List of signatures appended to the Declaration of February 26, 1909, up to March 20, 1909.[a]

For Germany:	KRIEGE.
For the United States of America:	C. H. STOCKTON. GEORGE GRAFTON WILSON.
For Austria-Hungary:	C. DUMBA.
For France:	L. RENAULT.
For Great Britain:	DESART.
For the Netherlands:	J. A. ROELL. L. H. RUYSSENAERS.

Five-Power Treaty, February 6, 1922*

* 43 Stat. 1655; T.S. 671; 25 L.N.T.S. 202.

No. 609. — TRAITÉ [1] ENTRE LES ÉTATS-UNIS D'AMÉRIQUE, L'EMPIRE BRITANNIQUE, LA FRANCE, L'ITALIE ET LE JAPON, RELATIF A LA LIMITATION DES ARMEMENTS NAVALS, SIGNÉ A WASHINGTON LE 6 FÉVRIER 1922.

CHAPITRE I.

Dispositions générales relatives à la limitation de l'armement naval.

Article I.

Les Puissances Contractantes conviennent de limiter leur armement naval ainsi qu'il est prévu au présent Traité.

Article II.

Les Puissances Contractantes pourront conserver respectivement les navires de ligne énumérés au chapitre II, partie 1. A la mise en vigueur du présent Traité et sous réserve des dispositions ci-dessous du présent article, il sera disposé comme il est prescrit au chapitre II, partie 2, de tous les autres navires de ligne des Etats-Unis, de l'Empire britannique et du Japon, construits ou en construction.

En sus des navires de ligne énumérés au chapitre II, partie 1, les Etats-Unis pourront achever et conserver deux navires actuellement en construction de la classe *West Virginia*. A l'achèvement de ces deux navires, il sera disposé du *North Dakota* et du *Delaware* comme il est prescrit au chapitre II, partie 2.

L'Empire britannique pourra, conformément au tableau de remplacement du chapitre II, partie 3, construire deux nouveaux navires de ligne ayant chacun un déplacement type maximum de 35.000 tonnes (35.560 tonnes métriques). A l'achèvement de ces deux navires,

[1] L'échange des instruments de ratifications a eu lieu à Washington le 17 août 1923.

No. 609. — TREATY [1] BETWEEN THE UNITED STATES OF AMERICA, THE BRITISH EMPIRE, FRANCE, ITALY AND JAPAN, FOR THE LIMITATION OF NAVAL ARMAMENT, SIGNED AT WASHINGTON, FEBRUARY 6, 1922.

CHAPTER I.

General provisions, relating to the limitation of naval armament.

Article I.

The Contracting Powers agree to limit their respective naval armament as provided in the present Treaty.

Article II.

The Contracting Powers may retain respectively the capital ships which are specified in Chapter II, Part 1. On the coming into force of the present Treaty, but subject to the following provisions of this Article, all other capital ships, built or building, of the United States, the British Empire and Japan shall be disposed of as prescribed in Chapter II, Part 2.

In addition to the capital ships specified in Chapter II, Part 1, the United States may complete and retain two ships of the *West Virginia* class now under construction. On the completion of these two ships, the *North Dakota* and *Delaware* shall be disposed of as prescribed in Chapter II, Part 2.

The British Empire may, in accordance with the replacement table in Chapter II, Part 3, construct two new capital ships not exceeding 35,000 tons (35,560 metric tons) standard displacement each. On the completion of the said two ships, the *Thunderer, King George V,*

[1] The deposit of the instruments of ratification took place at Washington on August 17, 1923.

il sera disposé du *Thunderer*, du *King George V*, de l'*Ajax* et du *Centurion* comme il est prescrit au chapitre II, partie 2.

Article III.

Sous réserve des dispositions de l'article II, les Puissances Contractantes abandonneront leur programme de construction de navires de ligne et ne construiront ou n'acquerront aucun nouveau navire de ligne, à l'exception du tonnage de remplacement qui pourra être construit ou acquis comme il est spécifié au chapitre II, partie 3.

Il sera disposé selon les prescriptions du chapitre II, partie 2, des navires remplacés conformément au chapitre II, partie 3.

Article IV.

Le tonnage total des navires de ligne de remplacement, calculé d'après le déplacement type, ne dépassera pas, pour chacune des Puissances Contractantes, savoir : pour les Etats-Unis, 525.000 tonnes (533.400 tonnes métriques) ; pour l'Empire britannique 525.000 tonnes (533.400 tonnes métriques) ; pour la France 175.000 tonnes (177.800 tonnes métriques) ; pour l'Italie 175.000 tonnes (177.800 tonnes métriques) ; pour le Japon 315.000 tonnes (320.040 tonnes métriques).

Article V.

Les Puissances Contractantes s'engagent à ne pas acquérir, à ne pas construire et à ne pas faire construire de navire de ligne d'un déplacement type supérieur à 35.000 tonnes (35.560 tonnes métriques), et à ne pas en permettre la construction dans le ressort de leur autorité.

Article VI.

Aucun navire de ligne de l'une quelconque des Puissances Contractantes ne portera de canon d'un calibre supérieur à 16 pouces (406 millimètres).

Article VII.

Le tonnage total des navires porte-aéronefs, calculé d'après le déplacement type, ne dépassera

Ajax and *Centurion* shall be disposed of as prescribed in Chapter II, Part 2.

Article III.

Subject to the provisions of Article II, the Contracting Powers shall abandon their respective capital ship-building programmes, and no new capital ships shall be constructed or acquired by any of the Contracting Powers except replacement tonnage, which may be constructed or acquired as specified in Chapter II, Part 3.

Ships which are replaced in accordance with Chapter II, Part 3, shall be disposed of as prescribed in Part 2 of that Chapter.

Article IV.

The total capital ship replacement tonnage of each of the Contracting Powers shall not exceed in standard displacement: for the United States, 525,000 tons (533,400 metric tons); for the British Empire, 525,000 tons (533,400 metric tons); for France, 175,000 tons (177,800 metric tons); for Italy, 175,000 tons (177,800 metric tons); for Japan, 315,000 tons (320,040 metric tons).

Article V.

No capital ship exceeding 35,000 tons, (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

Article VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (406 millimetres).

Article VII.

The total tonnage for aircraft-carriers of each of the Contracting Powers shall not exceed

pas, pour chacune des Puissances Contractantes, savoir : pour les Etats-Unis 135.000 tonnes (137.160 tonnes métriques) ; pour l'Empire britannique 135.000 tonnes (137.160 tonnes métriques) ; pour la France 60.000 tonnes (60.960 tonnes métriques) ; pour l'Italie 60.000 tonnes (60.960 tonnes métriques) ; pour le Japon 81.000 tonnes (82.296 tonnes métriques).

in standard displacement : for the United States, 135,000 tons (137,160 metric tons) ; for the British Empire, 135,000 tons (137,160 metric tons) ; for France, 60,000 tons (60,960 metric tons) ; for Italy, 60,000 tons (60,960 metric tons) ; for Japan, 81,000 tons (82,296 metric tons).

Article VIII.

Le remplacement des navires porte-aéronefs n'aura lieu que selon les prescriptions du chapitre II, partie 3 ; toutefois il est entendu que tous les navires porte-aéronefs construits ou en construction à la date du 12 novembre 1921 sont considérés comme navires d'expérience et pourront être remplacés, quel que soit leur âge, dans les limites de tonnage total prévues à l'article VII.

Article VIII.

The replacement of aircraft-carriers shall be effected only as prescribed in Chapter II, Part 3, provided, however, that all aircraft-carrier tonnage in existence or building on November 12, 1921, shall be considered experimental, and may be replaced, within the total tonnage limit prescribed in Article VII, without regard to its age.

Article IX.

Les Puissances Contractantes s'engagent à ne pas acquérir, à ne pas construire et à ne pas faire construire de navire porte-aéronefs, d'un déplacement type supérieur à 27.000 tonnes (27.432 tonnes métriques), et à ne pas en permettre la construction dans le ressort de leur autorité.

Toutefois, chacune des Puissances Contractantes pourra, pourvu qu'elle ne dépasse pas son tonnage total alloué de navires porte-aéronefs, construire au plus deux navires porte-aéronefs, chacun d'un déplacement type maximum de 33.000 tonnes (33.528 tonnes métriques) ; à cet effet et pour des raisons d'économie, chacune des Puissances Contractantes pourra utiliser deux de ses navires, terminés ou non terminés, pris à son choix parmi ceux qui, sans cela, devraient être mis hors d'état de servir pour le combat aux termes de l'article II. L'armement d'un navire porte-aéronefs ayant un déplacement type supérieur à 27.000 tonnes (27.432 tonnes métriques) sera soumis aux dispositions de l'article X, avec cette restriction que, si cet armement comporte un seul canon d'un calibre supérieur à 6 pouces (152 millimètres), le nombre total des canons ne pourra dépasser huit, non compris les canons contre-aéronefs et les canons d'un calibre ne dépassant pas 5 pouces (127 millimètres).

Article IX.

No aircraft-carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

However, any of the Contracting Powers may, provided that its total tonnage allowance of aircraft-carriers is not thereby exceeded, build not more than two aircraft-carriers, each of a tonnage of not more than 33,000 tons (33,528 metric tons) standard displacement, and in order to effect economy any of the Contracting Powers may use for this purpose any two of their ships, whether constructed or in course of construction, which would otherwise be scrapped under the provisions of Article II. The armament of any aircraft-carriers exceeding 27,000 tons (27,432 metric tons) standard displacement shall be in accordance with the requirements of Article X, except that the total number of guns to be carried, in case any of such guns be of a calibre exceeding 6 inches (152 millimetres), except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed eight.

Article X.

Aucun navire porte-aéronefs de l'une quelconque des Puissances Contractantes ne portera de canon d'un calibre supérieur à 8 pouces (203 millimètres). Sous réserve de l'exception prévue à l'article IX, si l'armement comprend des canons d'un calibre supérieur à 6 pouces (152 millimètres), le nombre total des canons pourra être de dix au maximum, non compris les canons contre-aéronefs et les canons d'un calibre ne dépassant pas 5 pouces (127 millimètres). Si, au contraire, l'armement ne comprend pas de canon d'un calibre supérieur à 6 pouces (152 millimètres), le nombre des canons n'est pas limité. Dans les deux cas, le nombre des canons contre-aéronefs et des canons d'un calibre ne dépassant pas 5 pouces (127 millimètres) n'est pas limité.

Article XI.

Les Puissances Contractantes s'engagent à ne pas acquérir, à ne pas construire et à ne pas faire construire, en dehors des navires de ligne ou des navires porte-aéronefs, de navires de combat d'un déplacement type supérieur à 10.000 tonnes (10.160 tonnes métriques), et à ne pas en permettre la construction dans le ressort de leur autorité. Ne sont pas soumis aux limitations du présent article les bâtiments employés soit à des services de la flotte, soit à des transports de troupes, soit à toute autre participation à des hostilités qui ne serait pas celle d'un navire combattant, pourvu qu'ils ne soient pas spécifiquement construits comme navires combattants ou placés en temps de paix sous l'autorité du gouvernement dans un but de combat.

Article XII.

En dehors des navires de ligne, aucun navire de combat de l'une quelconque des Puissances Contractantes, mis en chantier à l'avenir, ne portera de canon d'un calibre supérieur à 8 pouces (203 millimètres).

Article XIII.

Sous réserve de l'exception prévue à l'article IX, aucun navire à déclasser par application du présent Traité ne pourra redevenir navire de guerre.

Article X.

No aircraft-carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre, the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If, alternatively, the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

Article XI.

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft-carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under Government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

Article XII.

No vessel of war of any of the Contracting Powers hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

Article XIII.

Except as provided in Article *IX*, no ship designated in the present Treaty to be scrapped may be reconverted into a vessel of war.

Article XIV.

Il ne sera fait, en temps de paix, aucune installation préparatoire sur les navires de commerce en vue de les armer pour les convertir en navire de guerre ; toutefois, il sera permis de renforcer les ponts pour pouvoir y monter des canons d'un calibre ne dépassant pas 6 pouces (152 millimètres).

Article XV.

Aucun navire de guerre construit pour une Puissance non Contractante dans le ressort de l'autorité d'une Puissance Contractante ne devra dépasser les limites de déplacement et d'armement prévues au présent Traité pour les navires similaires à construire par ou pour les Puissances Contractantes. Toutefois, la limite du déplacement type des navires porte-aéronefs construits pour une Puissance non Contractante ne devra en aucun cas dépasser 27.000 tonnes (27.432 tonnes métriques).

Article XVI.

Si un navire de guerre, quel qu'il soit, est mis en construction pour le compte d'une Puissance non Contractante dans le ressort de l'autorité d'une Puissance Contractante, cette dernière fera connaître, aussi rapidement que possible, aux autres Puissances Contractantes, la date de signature du contrat de construction et celle de mise sur cale du navire ; elle leur communiquera également les caractéristiques du navire, en se conformant au Chapitre II, partie 3, section I (b), (4) et (5).

Article XVII.

Si l'une des Puissances Contractantes vient à être engagée dans une guerre, elle n'emploiera pas comme tels les navires de guerre quels qu'ils soient, en construction ou construits mais non livrés, dans le ressort de son autorité, pour le compte de toute autre Puissance.

Article XVIII.

Les Puissances Contractantes s'engagent à ne disposer ni à titre gratuit, ni à titre onéreux,

Article XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6 inches (152 millimetres) calibre.

Article XV.

No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers ; provided, however, that the displacement for aircraft-carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement.

Article XVI.

If the construction of any vessel of war for a non-Contracting Power is undertaken within the jurisdiction of any of the Contracting Powers, such Power shall promptly inform the other Contracting Powers of the date of the signing of the contract and the date on which the keel of the ship is laid ; and shall also communicate to them the particulars relating to the ship prescribed in Chapter II, Part 3, Section I (b), (4) and (5).

Article XVII.

In the event of a Contracting Power being engaged in war, such Power shall not use as a vessel of war any vessel of war which may be under construction within its jurisdiction for any other Power, or which may have been constructed within its jurisdiction for another Power and not delivered.

Article XVIII.

Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of

ni autrement, de leurs navires de guerre, quels qu'ils soient, dans des conditions permettant à une Puissance étrangère de les employer comme tels.

Article XIX.

Les Etats-Unis, l'Empire britannique et le Japon conviennent de maintenir, en matière de fortifications et de bases navales, le *statu quo* tel qu'il existe au jour de la signature du présent Traité dans leurs territoires et possessions respectifs ci-après désignés :

1. Les possessions insulaires, soit actuelles, soit futures, des Etats-Unis dans l'océan Pacifique, à l'exception : *a*) de celles avoisinant la côte des Etats-Unis, de l'Alaska et de la zone du Canal de Panama, non compris les Iles Aléoutiennes ; *b*) des Iles Hawaï ;

2. Hong-Kong et les possessions insulaires, soit actuelles, soit futures, de l'Empire britannique dans l'océan Pacifique, situées à l'est du méridien de 110° est de Greenwich, à l'exception : *a*) de celles avoisinant la côte du Canada ; *b*) du Commonwealth d'Australie et de ses Territoires ; *c*) de la Nouvelle-Zélande ;

3. Les territoires et possessions insulaires du Japon dans l'océan Pacifique, ci-après désignés : Iles Kouriles, Iles Bonin, Amami-Oshima, Iles Liou-Kiou, Formose et Pescadores, ainsi que tous territoires ou possessions insulaires futurs du Japon dans l'océan Pacifique.

Le maintien du *statu quo* visé ci-dessus implique :

qu'il ne sera établi dans les territoires et possessions ci-dessus visés ni bases navales, ni fortifications nouvelles ; qu'il ne sera pris aucune mesure de nature à accroître les ressources navales existant actuellement pour la réparation et l'entretien des forces navales ; et qu'il ne sera procédé à aucun renforcement des défenses côtières des territoires et possessions ci-dessus visés. Toutefois, cette restriction n'empêchera pas la réparation et le remplacement de l'armement et des installations détériorés, selon la pratique des établissements navals et militaires en temps de paix.

Article XX.

Les règles de détermination du déplacement telles qu'elles sont posées au chapitre II, partie 4, s'appliqueront aux navires de chacune des Puissances Contractantes.

transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the Navy of any foreign Power.

Article XIX.

The United States, the British Empire and Japan agree that the *status quo* at the time of the signing of the present Treaty, with regard to fortifications and naval bases, shall be maintained in their respective territories and possessions specified hereunder :

(1) The insular possessions which the United States now holds or may hereafter acquire in the Pacific Ocean, except (*a*) those adjacent to the coast of the United States, Alaska and the Panama Canal Zone, not including the Aleutian Islands, and (*b*) the Hawaiian Islands ;

(2) Hong-Kong and the insular possessions which the British Empire now holds or may hereafter acquire in the Pacific Ocean, east of the meridian of 110° east longitude, except (*a*) those adjacent to the coast of Canada, (*b*) the Commonwealth of Australia and its territories, and (*c*) New Zealand ;

(3) The following insular territories and possessions of Japan in the Pacific Ocean, to wit : the Kurile Islands, the Bonin Islands, Amami-Oshima, the Loochoo Islands, Formosa and the Pescadores, and any insular territories or possessions in the Pacific Ocean which Japan may hereafter acquire.

The maintenance of the *status quo* under the foregoing provisions implies that no new fortifications or naval bases shall be established in the territories and possessions specified ; that no measures shall be taken to increase the existing naval facilities for the repair and maintenance of naval forces, and that no increase shall be made in the coast defences of the territories and possessions above specified. This restriction, however, does not preclude such repair and replacement of worn-out weapons and equipment as is customary in naval and military establishments in time of peace.

Article XX.

The rules for determining tonnage displacement prescribed in Chapter II, Part 4, shall apply to the ships of each of the Contracting Powers.

CHAPITRE II.

Règles concernant l'exécution du traité. — Définition des termes employés.

PARTIE I.

NAVIRES DE LIGNE QUI PEUVENT ÊTRE CONSERVÉS PAR LES PUISSANCES CONTRACTANTES.

Pourront être conservés par chacune des Puissances Contractantes, conformément à l'article II, les navires énumérés dans la présente partie.

Navires qui peuvent être conservés par les Etats-Unis.

Nom :	Tonnage.
Maryland	32.600
California	32.300
Tennessee	32.300
Idaho	32.000
New Mexico	32.000
Mississippi	32.000
Arizona	31.400
Pennsylvania	31.400
Oklahoma	27.500
Nevada	27.500
New York	27.000
Texas	27.000
Arkansas	26.000
Wyoming	26.000
Florida	21.825
Utah	21.825
North Dakota	20.000
Delaware	20.000
Tonnage total	500.650

Quand les deux unités de la classe *West Virginia* seront achevées et quand le *North Dakota* et le *Delaware* seront déclassés, ainsi qu'il est indiqué à l'article II, le tonnage total à conserver par les Etats-Unis sera de 525.850 tonnes.

CHAPTER II.

Rules relating to the execution of the Treaty. — Definition of terms.

PART I.

CAPITAL SHIPS WHICH MAY BE RETAINED BY THE CONTRACTING POWERS.

In accordance with Article II, ships may be retained by each of the Contracting Powers as specified in this Part.

Ships which may be retained by the United States.

Name :	Tonnage.
Maryland	32,600
California	32,300
Tennessee	32,300
Idaho	32,000
New Mexico	32,000
Mississippi	32,000
Arizona	31,400
Pennsylvania	31,400
Oklahoma	27,500
Nevada	27,500
New York	27,000
Texas	27,000
Arkansas	26,000
Wyoming	26,000
Florida	21,825
Utah	21,825
North Dakota	20,000
Delaware	20,000
Total tonnage	500,650

On the completion of the two ships of the *West Virginia* class and the scrapping of the *North Dakota* and *Delaware*, as provided in Article II, the total tonnage to be retained by the United States will be 525,850 tons.

Navires qui peuvent être conservés par l'Empire britannique.

Nom :	Tonnage.
Royal Sovereign	25.750
Royal Oak	25.750
Revenge	25.750
Resolution	25.750
Ramillies	25.750
Malaya	27.500
Valiant	27.500
Barham	27.500
Queen Elizabeth	27.500
Warspite	27.500
Benbow	25.000
Emperor of India	25.000
Iron Duke	25.000
Marlborough	25.000
Hood	41.200
Renown	26.500
Repulse	26.500
Tiger	28.500
Thunderer	22.500
King George V	23.000
Ajax	23.000
Centurion	23.000
Tonnage total	580.450

Quand les deux unités nouvelles à construire seront achevées, et quand le *Thunderer*, le *King George V*, l'*Ajax* et le *Centurion* seront déclassés, ainsi qu'il est indiqué à l'article II, le tonnage total à conserver par l'Empire britannique sera de 558.950 tonnes.

Navires qui peuvent être conservés par la France.

Nom :	Tonnage (tonnes métriques).
Bretagne	23.500
Lorraine	23.500
Provence	23.500
Paris	23.500
France	23.500
Jean Bart	23.500
Courbet	23.500
Condorcet	18.890
Diderot	18.890
Voltaire	18.890
Tonnage total	221.170

La France pourra mettre en chantier des navires neufs en 1927, 1929 et 1931, ainsi qu'il est prévu à la partie 3, section II.

Ships which may be retained by the British Empire.

Name :	Tonnage.
Royal Sovereign	25,750
Royal Oak	25,750
Revenge	25,750
Resolution	25,750
Ramillies	25,750
Malaya	27,500
Valiant	27,500
Barham	27,500
Queen Elizabeth	27,500
Warspite	27,500
Benbow	25,000
Emperor of India	25,000
Iron Duke	25,000
Marlborough	25,000
Hood	41,200
Renown	26,500
Repulse	26,500
Tiger	28,500
Thunderer	22,500
King George V	23,000
Ajax	23,000
Centurion	23,000
Total tonnage	580,450

On the completion of the two new ships to be constructed and the scrapping of the *Thunderer*, *King George V*, *Ajax* and *Centurion*, as provided in Article II, the total tonnage to be retained by the British Empire will be 558,950 tons.

Ships which may be retained by France.

Name :	Tonnage (metric tons).
Bretagne	23,500
Lorraine	23,500
Provence	23,500
Paris	23,500
France	23,500
Jean Bart	23,500
Courbet	23,500
Condorcet	18,890
Diderot	18,890
Voltaire	18,890
Total tonnage	221,170

France may lay down new tonnage in the years 1927, 1929, and 1931, as provided in Part 3, Section II.

Navires qui peuvent être conservés par l'Italie.

Nom :	Tonnage (tonnes métriques).
Andrea Doria	22.700
Caio Duilio	22.700
Conte di Cavour	22.500
Giulio Cesare	22.500
Leonardo Da Vinci	22.500
Dante Alighieri	19.500
Roma	12.600
Napoli	12.600
Vittorio Emanuele	12.600
Regina Elena	12.600
Tonnage total	182.800

L'Italie pourra mettre en chantier des navires neufs en 1927, 1929 et 1931, ainsi qu'il est prévu à la partie 3, section II.

Navires qui peuvent être conservés par le Japon.

Nom :	Tonnage.
Mutsu	33.800
Nagato	33.800
Hiuga	31.260
Ise	31.260
Yamashiro	30.600
Fu-so	30.600
Kirishima	27.500
Haruna	27.500
Hiyei	27.500
Kongo	27.500
Tonnage total	301.320

Ships which may be retained by Italy.

Name :	Tonnage (metric tons).
Andrea Doria	22,700
Caio Duilio	22,700
Conte Di Cavour	22,500
Giulio Cesare	22,500
Leonardo Da Vinci	22,500
Dante Alighieri	19,500
Roma	12,600
Napoli	12,600
Vittorio Emanuele	12,600
Regina Elena	12,600
Total tonnage	182,800

Italy may lay down new tonnage in the years 1927, 1929, and 1931, as provided in Part 3, Section II.

Ships which may be retained by Japan.

Name :	Tonnage.
Mutsu	33,800
Nagato	33,800
Hiuga	31,260
Ise	31,260
Yamashiro	30,600
Fu-So	30,600
Kirishima	27,500
Haruna	27,500
Hiyei	27,500
Kongo	27,500
Total tonnage	301,320

Partie 2.

RÈGLES APPLICABLES AU DÉCLASSEMENT DES NAVIRES DE GUERRE.

Les règles suivantes devront être observées pour le déclassement des navires de guerre dont on doit disposer comme il est prescrit aux articles II et III.

I. Un navire, pour être déclassé, doit être mis mis hors d'état de servir pour le combat.

II. Pour obtenir ce résultat d'une manière définitive, on devra employer l'un des moyens suivants :

a) Submersion du navire sans possibilité de renflouement ;

Part 2.

RULES FOR SCRAPPING VESSELS OF WAR.

The following rules shall be observed for the scrapping of vessels of war which are to be disposed of in accordance with Articles II and III.

I. A vessel to be scrapped must be placed in such condition that it cannot be put to combatant use.

II. This result must be finally effected in any one of the following ways :

(a) Permanent sinking of the vessel ;

b) Démolition. Cette opération devra toujours comprendre la destruction ou l'enlèvement de toutes machines, chaudières, cuirasses, ainsi que de tout le bordé de pont, de flanc et de fond ;

c) Transformation pour l'usage exclusif de cible. Dans ce cas, on devra observer au préalable toutes les dispositions du paragraphe III de la présente partie, à l'exception du sous-paragraphe (6) (dans la mesure nécessaire pour utiliser le navire comme cible mobile), et du sous-paragraphe (7). Aucune des Puissances Contractantes ne pourra conserver, pour s'en servir comme de cible, plus d'un navire de ligne à la fois.

d) Parmi les navires de ligne arrivant à partir de 1931 à l'époque de leur déclassement, la France et l'Italie sont autorisées à conserver chacune deux bâtiments navigants, qui seront affectés exclusivement aux écoles de canonnage ou de torpilles. Pour la France, ces deux navires seront du type *Jean Bart*. Pour l'Italie, l'un d'eux sera le *Dante Alighieri*, le second sera du type *Giulio Cesare*. La France et l'Italie s'engagent à ne plus utiliser comme navires de guerre les navires ainsi conservés dont les blockhaus devront alors être enlevés et détruits.

III. *a)* Sous réserve des exceptions spéciales de l'Article IX, quand un navire doit être déclassé, la première opération du déclassement, qui consiste à mettre le navire hors d'état de remplir ultérieurement un service de combat, doit être immédiatement commencée.

b) Un navire sera considéré comme mis hors d'état de remplir ultérieurement un service de combat quand on aura enlevé et mis à terre ou détruit à bord du navire :

1. tous les canons et parties essentielles de canons, les hunes de direction de tir et les parties tournantes de toutes les tourelles barbettes et fermées ;

2. toute la machinerie hydraulique ou électrique de manœuvre des affûts ;

(b) Breaking the vessel up. This shall always involve the destruction or removal of all machinery, boilers and armour, and all deck, side and bottom plating ;

(c) Converting the vessel to target use exclusively. In such case all the provisions of paragraph III of this Part, except sub-paragraph (6), in so far as may be necessary to enable the ship to be used as a mobile target, and except sub-paragraph (7), must be previously complied with. Not more than one capital ship may be retained for this purpose at one time by any of the Contracting Powers.

(d) Of the capital ships which would otherwise be scrapped under the present Treaty in or after the year 1931, France and Italy may each retain two sea-going vessels for training purposes exclusively, that is, as gunnery or torpedo schools. The two vessels retained by France shall be of the *Jean Bart* class, and of those retained by Italy one shall be the *Dante Alighieri*, the other of the *Giulio Cesare* class. On retaining these ships for the purpose above stated, France and Italy respectively undertake to remove and destroy their conning-towers, and not to use the said ships as vessels of war.

III. *(a)* Subject to the special exceptions contained in Article IX, when a vessel is due for scrapping, the first stage of scrapping, which consists in rendering a ship incapable of further warlike service, shall be immediately undertaken.

(b) A vessel shall be considered incapable of furthur warlike service when there shall have been removed and landed, or else destroyed in the ship :

(1) All guns and essential portions of guns, fire-control tops and revolving parts of all barbettes and turrets ;

(2) All machinery for working hydraulic or electric mountings ;

3. tous les instruments et les télémètres de direction de tir ;
4. toutes les munitions, les explosifs et les mines ;
5. toutes les torpilles, cônes de charge et tubes lance-torpilles ;
6. toutes les installations de télégraphie sans fil ;
7. le blockhaus et toute la cuirasse de flanc, ou, si l'on préfère, tout l'appareil moteur principal ;
8. toutes les plateformes d'atterrissage et d'envol et tous autres accessoires d'aviation.

IV. Les délais dans lesquels les opérations de déclassement des navires devront être accomplies sont les suivants :

a) S'il s'agit de navires à déclasser d'après le premier alinéa de l'article II, les opérations nécessaires pour mettre ces navires hors d'état de remplir ultérieurement un service de combat, en observant les prescriptions du paragraphe III de la présente partie, devront être achevées dans un délai de six mois et le déclassement devra être complètement terminé dans un délai de dix huit mois, l'un et l'autre à dater de la mise en vigueur du présent Traité.

b) S'il s'agit de navires à déclasser d'après les alinéas 2 et 3 de l'article II ou d'après l'article III, les opérations nécessaires pour mettre chacun de ces navires hors d'état de remplir ultérieurement un service de combat, en observant les prescriptions du paragraphe III de la présente partie, devront être commencées au plus tard à la date de l'achèvement du navire de remplacement et devront être terminées dans les six mois qui suivront cette date. Le déclassement, opéré conformément au paragraphe II de la présente partie, devra être terminé dans les dix-huit mois qui suivront l'achèvement du navire de remplacement. Si, cependant, l'achèvement du nouveau navire est retardé, on devra commencer, au plus tard quatre ans après sa mise sur cale, les opérations nécessaires pour mettre le vieux navire hors d'état de remplir ultérieurement un service de combat, conformément au paragraphe III de

(3) All fire-control instruments and range-finders ;
(4) All ammunition, explosives and mines ;
(5) All torpedoes, war-heads and torpedo tubes ;
(6) All wireless telegraphy installations ;
(7) The conning-tower and all side armour, or alternatively all main propelling machinery ; and
(8) All landing and flying-off platforms and all other aviation accessories.

IV. The periods in which scrapping of vessels is to be effecteçd are as follow :

(a) In the case of vessels to be scrapped under the first paragraph of Article II, the work of rendering the vessels incapable of further warlike service, in accordance with paragraph III of this Part, shall be completed within six months from the coming into force of the present Treaty, and the scrapping shall be finally effected within eighteen months from such coming into force.

(b) In the case of vessels to be scrapped under the second and third paragraphs of Article II, or under Article III, the work of rendering the vessel incapable of further warlike service, in accordance with paragraph III of this Part, shall be commenced not later than the date of completion of its successor, and shall be finished within six months from the date of such completion. The vessel shall be finally scrapped, in accordance with paragraph II of this Part, within eighteen months from the date of completion of its successor. If, however, the completion of the new vessel be delayed, then the work of rendering the old vessel incapable of further warlike service, in accordance with paragraph III of this Part, shall be commenced within four years from the laying of the keel of the new vessel, and shall be finished within six months from the date on which such work was commenced, and the

la présente Partie, et ce travail devra être terminé en six mois. Le vieux navire devra être définitivement déclassé, dans les conditions du paragraphe II de la présente partie, dix-huit mois après le commencement des travaux de la dite mise hors d'état.

old vessel shall be finally scrapped in accordance with paragraph II of this Part, within eighteen months from the date when the work of rendering it incapable of further warlike service was commenced.

Partie 3.

REMPLACEMENTS.

Le remplacement des navires de ligne et des navires porte-aéronefs se fera selon les règles de la section I et des tableaux de la section II de la présente partie.

Part 3.

REPLACEMENT.

The replacement of capital ships and aircraft-carriers shall take place according to the rules in Section I and the tables in Section II of this Part.

Section I.

RÈGLES DE REMPLACEMENT.

a) Sous réserve des cas prévus à l'article VIII et aux tableaux de la section II de la présente partie, les navires de ligne et les navires porte-aéronefs pourront être remplacés, vingt ans après le jour de leur achèvement, par des constructions neuves, mais seulement dans les limites prévues aux articles IV et VII. Sous réserve des exceptions prévues à l'article VIII et aux tableaux de la section II de la présente Partie, les nouveaux navires ne pourront être mis sur cale que dix-sept ans après l'achèvement de l'unité à remplacer. Toutefois, il est entendu qu'à l'exception des navires visés au troisième alinéa de l'article II et à l'exception du tonnage de remplacement spécifié à la section II de la présente partie, aucun navire de ligne ne sera mis sur cale avant l'expiration d'une période de dix ans à partir du 12 novembre 1921.

b) Chacune des Puissances Contractantes communiquera aussi rapidement que possible aux autres les informations suivantes :

1. Les noms des navires de ligne et des navires porte-aéronefs qui doivent être remplacés par des constructions neuves ;
2. La date de l'autorisation gouvernementale donnée pour la construction des navires de remplacement ;
3. La date de mise sur cale de chaque navire de remplacement ;
4. Le déplacement type en tonnes et en tonnes métriques de chaque unité nouvelle à mettre sur cale ainsi que ses

Section I.

RULES FOR REPLACEMENT.

(*a*) Capital ships and aircraft-carriers twenty years after the date of their completion may, except as otherwise provided in Article VIII and in the tables in Section II of this Part, be replaced by new construction, but within the limits prescribed in Article IV and Article VII. The keels of such new construction may, except as otherwise provided in Article VIII and in the tables in Section II of this Part, be laid down not earlier than seventeen years from the date of completion of the tonnage to be replaced, provided, however, that no capital-ship tonnage, with the exception of the ships referred to in the third paragraph of Article II, and the replacement tonnage specifically mentioned in Section II of this Part, shall be laid down until ten years from November 12, 1921.

(*b*) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information :

(1) The names of the capital ships and aircraft-carriers to be replaced by new construction ;

(2) The date of governmental authorisation of replacement tonnage ;

(3) The date of laying the keels of replacement tonnage ;

(4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions,

principales dimensions, à savoir : longueur à la flottaison ; largeur maximum à ou sous la ligne de flottaison ; tirant d'eau moyen correspondant au déplacement type ;

5. La date d'achèvement de chaque nouvelle unité et son déplacement type en tonnes et en tonnes métriques, ainsi que ses principales dimensions à l'époque de l'achèvement, à savoir : longueur à la ligne de flottaison ; largeur maximum à ou sans la flottaison ; tirant d'eau moyen correspondant au déplacement type.

c) Les navires de ligne et les navires porte-aéronefs pourront, en cas de perte ou de destruction accidentelle, être remplacés immédiatement, dans les limites de tonnage spécifiées aux articles IV et VII, par des constructions neuves effectuées conformément aux dispositions du présent Traité ; le programme de remplacement prévu pour la Puissance intéressée sera considéré comme ayant été avancé en ce qui concerne le navire perdu ou détruit.

d) La seule refonte autorisée pour les navires de ligne et les navires porte-aéronefs conservés consistera à munir ces unités de moyens de défense contre les attaques aériennes et sous-marines dans les conditions suivantes : les Puissances Contractantes pourront, dans ce but, ajouter aux navires existants des soufflages et caissons, ainsi que des ponts de protection contre les attaques aériennes, pourvu que l'augmentation de déplacement qui en résultera pour les navires ne dépasse pas 3.000 tonnes (3.048 tonnes métriques) pour chaque navire. Sera interdit tout changement dans la cuirasse de flanc, le calibre et le nombre des canons de l'armement principal, ainsi que tout changement dans son plan général d'installation. Il est fait exception :

1. Pour la France et l'Italie, qui pourront dans les limites de l'augmentation de déplacement accordée pour le soufflage, accroître les cuirassements de protection ainsi que le calibre des canons portés par leurs navires de ligne existants, à la condition que ce calibre ne dépasse pas 16 pouces (406 millimètres) ;

2. Pour l'Empire britannique, qui sera autorisé à achever sur le *Renown*, les modifications de cuirassement déjà commencées et provisoirement arrêtées.

namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement ;

(5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement, at time of completion.

(*c*) In case of loss or accidental destruction of capital ships or aircraft-carriers, they may immediately be replaced by new construction, subject to the tonnage limits prescribed in Articles IV and VII and in conformity with the other provisions of the present Treaty, the regular replacement program being deemed to be advanced to that extent.

(*d*) No retained capital ships or aircraft-carriers shall be reconstructed except for the purpose of providing means of defence against air and submarine attack, and subject to the following rules : The Contracting Powers may, for that purpose, equip existing tonnage with bulge or blister or anti-air attack deck protection, providing the increase of displacement thus effected does not exceed 3,000 tons (3,048 metric tons) displacement for each ship. No alterations in side armour, in calibre, number or general type of mounting of main armament shall be permitted except :

(1) in the case of France and Italy, which countries within the limits allowed for bulge may increase their armour protection and the calibre of the guns now carried on their existing capital ships so as not to exceed 16 inches (406 millimetres) and ;

(2) the British Empire shall be permitted to complete, in the case of the *Renown*, the alterations to armour that have already been commenced but temporarily suspended.

SECTION II. — REMPLACEMENT ET DÉCLASSEMENT DES NAVIRES DE LIGNE.
ETATS-UNIS.

SECTION II. — REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS.
UNITED STATES.

Année. Year.	Navires mis sur cale. Ships laid down.	Navires achevés. Ships completed.	Navires à déclasser (âge entre parenthèse). Ships scrapped (age in parentheses).	Navires conservés. Nombre total. Ships retained. Summary.	
				Pre-Jutland.	Post-Jutland.
			Maine (20), Missouri (20), Virginia (17), Nebraska (17), Georgia (17), New Jersey (17), Rhode Island (17), Connecticut (17), Louisiana (17), Vermont (16), Kansas (16), Minnesota (16), New Hampshire (15), South Carolina (13), Michigan (13), Washington (0), South Dakota (0), Indiana (0), Montana (0), North Carolina (0), Iowa (0), Massachusetts (0), Lexington (0), Constitution (0), Constellation (0), Saratoga (0), Ranger (0), United States (0).[1]	17	1
1922		A, B[2]	Delaware (12), North Dakota (12)	15	3
1923				15	3
1924				15	3
1925				15	3
1926				15	3
1927				15	3
1928				15	3
1929				15	3
1930				15	3
1931	C, D			15	3
1932	E, F			15	3
1933	G			15	3
1934	H, I	C, D	Florida (23), Utah (23), Wyoming (22)	12	5
1935	J	E, F	Arkansas (23), Texas (21), New York (21)	9	7
1936	K, L	G	Nevada (20), Oklahoma (20)	7	8
1937	M	H, I	Arizona (21), Pennsylvania (21)	5	10
1938	N, O	J	Mississipi (21)	4	11
1939	P, Q	K, L	New Mexico (21), Idaho (20)	2	13
1940		M	Tennessee (20)	1	14
1941		N, O	California (20), Maryland (20)	0	15
1942		P, Q	2 Navires de la classe « West Virginia » (2 Ships West Virginia class)	0	15

[1] Les Etats-Unis pourront conserver *l'Oregon* et *l'Illinois* pour des destinations autres que le combat, en se conformant aux dispositions de la partie 2, III (b).

[2] 2 de la classe « West Virginia. »

NOTE. — Les lettres A, B, C, D, etc., représentent chacune un navire de ligne de 35,000 tonnes de déplacement type, mis sur cale et achevé dans les années indiquées.

[1] The United States may retain the *Oregon* and *Illinois*, for non-combatant purposes, after complying with the provisions of Part 2, III (b).

[2] Two West Virginia class.

NOTE. — A, B, C, D, etc., represent individual capital ships of 35,000 tons standard displacement, laid down and completed in the years specified.

REMPLACEMENT ET DÉCLASSEMENT DES NAVIRES DE LIGNE.
EMPIRE BRITANNIQUE.

REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS.
BRITISH EMPIRE.

Année. Year.	Navires mis sur cale. Ships laid down.	Navires achevés. Ships completed.	Navires à déclasser (âge entre parenthèse). Ships scrapped (age in parentheses).	Navires conservés. Nombre total. Ships retained. Summary.	
				Pre-Jutland	Post-Jutland
			Commonwealth (16), Agamemnon (13), Dreadnought (15), Bellerophon (12), St. Vincent (11) Inflexible (13), Superb (12), Neptune (10), Hercules (10), Indomitable (13), Temeraire (12), New Zealand (9), Lion (9), Princess Royal (9), Conquerer (9), Monarch (9), Orion (9), Australia (8), Agincourt (7), Erin (7), 4 en construction ou en projet. (4 building or projected).[1]	21	1
1922	A, B [2]			21	1
1923				21	1
1924				21	1
1925		A, B	King George V (13), Ajax (12), Centurion (12), Thunderer (13).	17	3
1926				17	3
1927				17	3
1928				17	3
1929				17	3
1930				17	3
1931	C, D			17	3
1932	E, F			17	3
1933	G			17	3
1934	H, I	C, D	Iron Duke (20), Marlborough (20), Emperor of India (20), Benbow (20).	13	5
1935	J	E, F	Tiger (21), Queen Elizabeth (20), Warspite (20), Barham (20).	9	7
1936	K, L	G	Malaya (20), Royal Sovereign (20)	7	8
1937	M	H, I	Revenge (21), Resolution (21)	5	10
1938	N, O	J	Royal Oak (22)	4	11
1939	P, Q	K, L	Valiant (23), Repulse (23)	2	13
1940		M	Renown (24)	1	14
1941		N, O	Ramillies (24), Hood (21)	0	15
1942		P, Q	A (17), B (17)	0	15

[1] L'Empire britannique pourra conserver le *Colossus* et le *Collingwood* pour des destinations autre que le combat, en se conformant aux dispositions de la Partie 2, III (b).

[2] 2 navires de 35,000 tonnes de déplacement type.

NOTE. — Les lettres A, B, C, D, etc., représentent chacune un navire de ligne de 35,000 tonnes de déplacement type, mis sur cale et achevé dans les années indiquées.

[1] The British Empire may retain the *Colossus* and *Collingwood* for non-combatant purposes, after complying with the provisions of Part 2, III (b).

[2] Two 35,000-ton ships, standard displacement.

NOTE. — A, B, C, D, etc., represent individual capital ships of 35,000 tons standard displacement, laid down and completed in the years specified.

REMPLACEMENT ET DÉCLASSEMENT DE NAVIRES DE LIGNE.

FRANCE.

REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS.

FRANCE.

Année. Year.	Navires mis sur cale. Ships laid down.	Navires achevés. Ships completed.	Navires à déclasser (âge entre parenthèse). Ships scrapped (age in parentheses).	Navires conservés. Nombre total. Ships retained. Summary. Pre-Jutland.	Post-
1922	.....	.....	.....	7	0
1923	.....	.....	.....	7	0
1924	.....	.....	.....	7	0
1925	.....	.....	.....	7	0
1926	.....	.....	.....	7	0
1927	35,000 tons	.....	.....	7	0
1928	.....	.....	.....	7	0
1929	35,000 tons	.....	.....	7	0
1930	.....	35,000 tons	Jean Bart (17), Courbet (17)	5	(1)
1931	35,000 tons	.....	.....	5	(1)
1932	35,000 tons	35,000 tons	France (18)	4	(1)
1933	35,000 tons	.....	.....	4	(1)
1934	.....	35,000 tons	Paris (20), Bretagne (20)	2	(1)
1935	.....	35,000 tons	Provence (20)	1	(1)
1936	.....	35,000 tons	Lorraine (20)	0	(1)
1937	.....	.....	.....	0	(1)
1938	.....	.....	.....	0	(1)
1939	.....	.....	.....	0	(1)
1940	.....	.....	.....	0	(1)
1941	.....	.....	.....	0	(1)
1942	.....	.....	.....	0	(1)

(1) Dans les limites du tonnage total ; nombre non fixé.

NOTE. — La France réserve expressément son droit d'employer son allocation de tonnage de navires de ligne comme elle le jugera bon, pourvu que le déplacement de chaque navire ne dépasse pas 35.000 tonnes et que le tonnage total de navires de ligne reste dans les limites imposées par le présent Traité.

(1) Within tonnage limitations ; number not fixed.

NOTE. — France expressly reserves the right of employing the capital-ship tonnage allotment as she may consider advisable, subject solely to the limitations that the displacement of individual ships should not surpass 35,000 tons, and that the total capital-ship tonnage should keep within the limits imposed by the present Treaty.

REMPLACEMENT ET DÉCLASSEMENT DE NAVIRES DE LIGNE.

ITALIE.

REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS.

ITALY.

Année. Year.	Navires mis sur cale. Ships laid down	Navires achevés. Ships completed.	Navires à déclasser (âge entre parenthèse). Ships scrapped (age in parentheses).	Navires conservés. Nombre total. Ships retained. Summary.	
				Pre-Jutland.	Post-
1922	.....	.....	.....	6	0
1923	.....	.....	.....	6	0
1924	.....	.....	.....	6	0
1925	.....	.....	.....	6	0
1926	.....	.....	.....	6	0
1927	35,000 tons	.....	.....	6	0
1928	.....	.....	.....	6	0
1929	35,000 tons	.....	.....	6	0
1930	.....	.....	.....	6	0
1931	35,000 tons	35,000 tons	Dante Alighieri (19)	5	(1)
1932	45,000 tons	.....	.....	5	(1)
1933	25,000 tons	35,000 tons	Leonardo da Vinci (19)	4	(1)
1934	.....	.....	.....	4	(1)
1935	.....	35,000 tons	Giulio Cesare (21)	3	(1)
1936	.....	45,000 tons	Conte di Cavour (21), Duilio (21)	1	(1)
1937	.....	25,000 tons	Andrea Doria (21)	0	(1)

(1) Dans les limites du tonnage total ; nombre non fixé.

NOTE. — L'Italie réserve expressément son droit d'employer son allocation de tonnage de navires de ligne comme elle le jugera bon, pourvu que le déplacement de chaque navire ne dépasse pas 35,000 tonnes, et que le tonnage total de navires de ligne reste dans les limites imposées par le présent Traité.

(1) Within tonnage limitations : number not fixed.

NOTE. — Italy expressly reserves the right of employing the capital-ship tonnage allotment as she may consider advisable, subject solely to the limitations that the displacement of individual ships should not surpass 35,000 tons, and the total capital-ship tonnage should keep within the limits imposed by the present Treaty.

REMPLACEMENT ET DÉCLASSEMENT DE NAVIRES DE LIGNE.
JAPON.

REPLACEMENT AND SCRAPPING OF CAPITAL SHIPS.
JAPAN.

Année. Year.	Navires mis sur cale. Ships laid down.	Navires achevés. Ships completed.	Navires à déclasser (âge entre parenthèse). Ships scrapped (age in parentheses).	Navires conservés. Nombre total. Ships retained. Summary.	
				Pre-Jutland.	Post-
			Hizen (20), Mikasa (20), Kashima (16), Katori (16), Satsuma (12), Aki (11), Settsu (10), Ikoma (14), Ibuki (12), Kurama (11), Amagi (0), Akagi (0), Kaga (0), Tosa (0), Takao (0), Atago (0), Projet de programme, 8 navires non sur cale. (Projected programme 8 ships not laid down).[1]	8	2
1922	.....	.....	.....	8	2
1923	.....	.....	.....	8	2
1924	.....	.....	.....	8	2
1925	.....	.....	.....	8	2
1926	.....	.....	.....	8	2
1927	.....	.....	.....	8	2
1928	.....	.....	.....	8	2
1929	.....	.....	.....	8	2
1930	.....	.....	.....	8	2
1931	A	.....	.....	8	2
1932	B	.....	.....	8	2
1933	C	.....	.....	7	3
1934	D	A	Kongo (21)	5	4
1935	E	B	Hiyei (21), Haruna (20)	4	5
1936	F	C	Kirishima (21)	3	6
1937	G	D	Fuso (22)	2	7
1938	H	E	Yamashiro (21)	1	8
1939	I	F	Ise (22)	0	9
1940	.....	G	Hiuga (22)	0	9
1941	.....	H	Nagato (21)	0	9
1942	.....	I	Mutsu (21)		

[1] Le Japon pourra conserver le *Shikishima* et l'*Asahi* pour des destinations autres que le combat, en se conformant aux dispositions de la partie 2, III *(b)*.

NOTE. — Les lettres A, B, C, D, etc., représentant chacune un navire de ligne de 35,000 tonnes de déplacement type, mis sur cale et achevé dans les années indiquées.

[1] Japan may retain the *Shikishima* and *Asahi* for non combatant purposes, after complying with the provisions of Part 2, III *(b)*.

NOTE. — A, B, C, D, etc., represent individual capital ships of 35,000 tons standard displacement, laid down and completed in the years specified.

NOTE VISANT TOUS LES TABLEAUX DE LA SECTION II.

Dans les tableaux précédents, l'ordre suivant lequel sont inscrits les navires à déclasser est celui de leur âge. Il est entendu que, quand les remplacements commenceront conformément aux dits tableaux, l'ordre de déclassement des navires de chaque Puissance Contractante pourra être changé au gré de cette Puissance, pourvu qu'elle déclasse chaque année le nombre de navires indiqué par ces tableaux.

NOTE APPLICABLE TO ALL THE TABLES IN SECTION II.

The order above prescribed in which ships are to be scrapped is in accordance with their age. It is understood that when replacement begins according to the above tables the order of scrapping in the case of the ships of each of the Contracting Powers may be varied at its option, provided, however, that such Power shall scrap in each year the number of ships above stated.

PARTIE 4.

DÉFINITIONS.

Dans le présent Traité, les expressions suivantes doivent s'entendre respectivement avec le sens ci-après.

NAVIRE DE LIGNE.

Un navire de ligne, en ce qui concerne les navires à construire dans l'avenir, est un navire de guerre autre qu'un navire porte-aéronefs, dont le déplacement type est supérieur à 10.000 tonnes (10.160 tonnes métriques), ou qui porte un canon d'un calibre supérieur à 8 pouces (203 millimètres).

NAVIRE PORTE-AÉRONEFS.

Un navire porte-aéronefs est un navire de guerre d'un déplacement type supérieur à 10.000 tonnes (10.160 tonnes métriques), spécifiquement et exclusivement destiné à porter des aéronefs. Il doit être construit de manière qu'un aéronef puisse y prendre son vol ou s'y poser. Son plan et sa construction ne doivent pas lui permettre de porter un armement plus puissant que celui autorisé soit par l'article IX, soit par l'article X, selon le cas.

DÉPLACEMENT TYPE.

Le déplacement type d'un navire est le déplacement du navire achevé, avec son équipage complet, ses machines et chaudières, prêt à prendre la mer, ayant tout son armement et

PART 4.

DEFINITIONS.

For the purposes of the present Treaty, the following expressions are to be understood in the sense defined in this Part.

CAPITAL SHIP.

A capital ship, in the case of ships hereafter built, is defined as a vessel of war, not an aircraft-carrier, whose displacement exceeds 10,000 tons (10,160 metric tons) standard displacement, or which carries a gun with a calibre exceeding 8 inches (203 millimetres).

AIRCRAFT-CARRIER.

An aircraft-carrier is defined as a vessel of war with a displacement in excess of 10,000 tons (10,160 metric tons) standard displacement designed for the specific and exclusive purpose of carrying aircraft. It must be so constructed that aircraft can be launched therefrom and landed thereon, and not designed and constructed for carrying a more powerful armament than that allowed to it under Article IX or Article X as the case may be.

STANDARD DISPLACEMENT.

The standard displacement of a ship is the displacement of the ship complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment,

toutes ses munitions, ses installations, équipements, vivres, eau douce pour l'équipage, approvisionnements divers, outillages et rechanges de toute nature qu'il doit emporter en temps de guerre, mais sans combustible et sans eau de réserve pour l'alimentation des machines et chaudières.

Le mot tonne employé dans le présent traité sans la qualification de « métrique » désigne une tonne de 2.240 lbs. ou 1.016 kilogrammes.

Les navires actuellement achevés continueront à figurer avec le déplacement qui leur est attribué selon leur système national d'évaluation. Toutefois, lorsqu'une Puissance compte le déplacement de ses navires en tonnes métriques, elle sera considérée, pour l'application du présent Traité, comme ne possédant que le tonnage équivalent en tonnes de 2.240 lbs.

Les navires achevés par la suite seront comptés pour leur déplacement type tel qu'il est défini au 1er alinéa de la présente définition.

outfit provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

The word "ton" in the present Treaty, except in the expression "metric tons", shall be understood to mean the ton of 2,240 pounds (1,016 kilos).

Vessels now completed shall retain their present ratings of displacement tonnage in accordance with their national system of measurement. However, a Power expressing displacement in metric tons shall be considered for the application of the present Treaty as owning only the equivalent displacement in tons of 2.240 pounds.

A vessel completed hereafter shall be rated at its displacement tonnage when in the standard condition defined herein.

CHAPITRE III.

Dispositions diverses.

Article XXI.

Si, pendant la durée du présent traité, une Puissance Contractante estime que les exigences de sa sécurité nationale, en ce qui touche la défense navale, se trouvent matériellement affectées par des circonstances nouvelles, les Puissances Contractantes se réuniront en conférence sur sa demande pour examiner à nouveau les dispositions du présent Traité et s'entendre sur les amendements à y apporter.

En raison des possibilités de progrès dans l'ordre technique et scientifique, les Etats-Unis provoqueront la réunion d'une Conférence de toutes les Puissances Contractantes après les avoir consultées. Cette Conférence se tiendra aussitôt que possible après l'expiration d'une période de huit ans à dater de la mise en vigueur du présent Traité et examinera les changements à y apporter, s'il y a lieu, pour faire face à ces progrès.

Article XXII.

Si l'une des Puissances Contractantes se trouve engagée dans une guerre qui, dans son

CHAPTER III.

Miscellaneous Provisions.

Article XXI.

If during the term of the present Treaty the requirements of the national security of any Contracting Power in respect of naval defence are, in the opinion of that Power, materially affected by any change of circumstances, the Contracting Powers will, at the request of such Power, meet in conference with a view to the reconsideration of the provisions of the Treaty and its amendment by mutual agreement.

In view of possible technical and scientific developments, the United States, after consultation with the other Contracting Powers, shall arrange for a conference of all the Contracting Powers which shall convene as soon as possible after the expiration of eight years from the coming into force of the present Treaty to consider what changes, if any, in the Treaty may be necessary to meet such developments.

Article XXII.

Whenever any Contracting Power shall become engaged in a war which in its opinion affects

opinion, affecte sa sécurité nationale du côté de la mer, cette Puissance pourra, sur avis préalable donné aux autres Puissances Contractantes, se dégager, pour la durée des hostilités, de ses obligations résultant du présent traité, à l'exception de celles qui sont prévues aux articles XIII et XVII. Toutefois, cette Puissance devra notifier aux autres Puissances Contractantes que la situation est d'un caractère assez critique pour exiger cette mesure.

Dans ce cas, les autres Puissances Contractantes échangeront leurs vues pour arriver à un accord sur les dérogations temporaires que l'exécution du traité devrait comporter, s'il y a lieu, en ce qui les concerne. Si cet échange de vues ne conduit pas à un accord, conclu régulièrement selon les procédures constitutionnelles auxquelles elles sont respectivement tenues, chacune d'entre elles pourra, après en avoir donné notification aux autres, se dégager, pour la durée des hostilités, des obligations résultant du présent traité, à l'exception de celles qui sont prévues aux articles XIII et XVII.

A la cessation des hostilités, les Puissances Contractantes se réuniront en Conférence pour examiner les modifications à apporter, s'il y a lieu, au présent Traité.

Article XXIII.

Le présent Traité restera en vigueur jusqu'au 31 décembre 1936. S'il n'est fait notification deux ans avant cette date par aucune des Puissances Contractantes de son intention de mettre fin au Traité, ce dernier restera en vigueur jusqu'à l'expiration d'un délai de deux ans à dater du jour où l'une des Puissances Contractantes notifiera son intention de mettre fin au Traité. En ce cas, le Traité prendra fin pour toutes les Puissances Contractantes. La notification devra être faite par écrit au Gouvernement des Etats-Unis, qui devra immédiatement en transmettre aux autres Puissances une copie authentique avec l'indication de la date de réception. La notification sera considérée comme faite à cette date, à partir de laquelle elle produira son effet. Dans le cas où le Gouvernement des Etats-Unis notifierait son intention de mettre fin au Traité, cette notification sera remise aux représentants diplomatiques à Washington des autres Puissances Contractantes ; la notification sera considérée comme faite et prendra effet à la date de la communication aux dits représentants diplomatiques.

the naval defence of its national security, such Power may after notice to the other Contracting Powers suspend for the period of hostilities its obligations under the present Treaty other than those under Articles XIII and XVII, provided that such Power shall notify the other Contracting Powers that the emergency is of such a character as to require such suspension.

The remaining Contracting Powers shall in such case consult together with a view to agreement as to what temporary modifications, if any, should be made in the Treaty as between themselves. Should such consultation not produce agreement, duly made in accordance with the constitutional methods of the respective Powers, any one of said Contracting Powers may, by giving notice to the other Contracting Powers, suspend for the period of hostilities its obligations under the present Treaty, other than those under Articles XIII and XVII.

On the cessation of hostilities the Contracting Powers will meet in conference to consider what modifications, if any, should be made in the provisions of the present Treaty.

Article XXIII.

The present Treaty shall remain in force until December 31st, 1936, and in case none of the Contracting Powers shall have given notice two years before that date of its intention to terminate the Treaty, it shall continue in force until the expiration of two years from the date on which notice of termination shall be given by one of the Contracting Powers, whereupon the Treaty shall terminate as regards all the Contracting Powers. Such notice shall be communicated in writing to the Government of the United States, which shall immediately transmit a certified copy of the notification to the other Powers and inform them of the date on which it was received. The notice shall be deemed to have been given and shall take effect on that date. In the event of notice of termination being given by the Government of the United States, such notice shall be given to the diplomatic representatives at Washington of the other Contracting Powers, and the notice shall be deemed to have been given and shall take effect on the date of the communication made to the said diplomatic representatives.

Toutes les Puissances Contractantes devront se réunir en Conférence dans le délai d'un an à partir de la date à laquelle aura pris effet la notification, par une des Puissances, de son intention de mettre fin au Traité.

Article XXIV.

Le présent Traité sera ratifié par les Puissances Contractantes selon les procédures constitutionnelles auxquelles elles sont respectivement tenues. Il prendra effet à la date du dépôt de toutes les ratifications, dépôt qui sera effectué à Washington, le plus tôt qu'il sera possible. Le Gouvernement des Etats-Unis remettra aux autres Puissances Contractantes une copie authentique du procès-verbal de dépôt des ratifications.

Le présent Traité, dont les textes français et anglais feront foi, restera déposé dans les archives du Gouvernement des Etats-Unis ; des expéditions authentiques en seront remises par ce Gouvernement aux autres Puissances Contractantes.

En foi de quoi les Plénipotentiaires susnommés ont signé le présent Traité.

Fait à Washington le six février mil neuf cent vingt-deux.

Within one year of the date on which a notice of termination by any Power has taken effect, all the Contracting Powers shall meet in conference.

Article XXIV.

The present Treaty shall be ratified by the Contracting Powers in accordance with their respective constitutional methods and shall take effect on the date of the deposit of all the ratifications, which shall take place at Washington as soon as possible. The Government of the United States will transmit to the other Contracting Powers a certified copy of the procès-verbal of the deposit of ratifications.

The present Treaty, of which the French and English texts are both authentic, shall remain deposited in the archives of the Government of the United States, and duly certified copies thereof shall be transmitted by that Government to the other Contracting Powers.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty.

Done at the City of Washington the sixth day of February, One Thousand Nine Hundred and Twenty-Two.

(L. S.) CHARLES EVANS HUGHES.
(L. S.) HENRY CABOT LODGE.
(L. S.) OSCAR W. UNDERWOOD.
(L. S.) ELIHU ROOT.
(L. S.) ARTHUR JAMES BALFOUR.
(L. S.) LEE OF FAREHAM.
(L. S.) A. C. GEDDES.

R. L. BORDEN. (L. S.)
G. F. PEARCE. (L. S.)
JOHN W. SALMOND. (L. S.)
ARTHUR JAMES BALFOUR. (L. S.)
V. S. SRINIVASA SASTRI. (L. S.)
A. SARRAUT. (L. S.)
JUSSERAND. (L. S.)
CARLO SCHANZER. (L. S.)

(L. S.) V. ROLANDI RICCI.
(L. S.) LUIGI ALBERTINI.
(L. S.) T. KATO.
(L. S.) K. SHIDEHARA.
(L. S.) M. HANIHARA

London Naval Treaty, April 22, 1930*

* 46 Stat. 2858; T.S. 830; 112 L.N.T.S. 66.

Nº 2608. — TRAITÉ INTERNATIONAL[1] POUR LA LIMITATION ET LA RÉDUCTION DES ARMEMENTS NAVALS. SIGNÉ A LONDRES, LE 22 AVRIL 1930.

Textes officiels français et anglais communiqués par le secrétaire d'Etat aux Affaires étrangères de Sa Majesté en Grande-Bretagne L'enregistrement de ce traité a eu lieu le 6 *février* 1931.

Ce traité a été transmis au Secrétariat par le « Department of State » du Gouvernement des Etats-Unis d'Amérique, le 19 *mars* 1931

No. 2608. — INTERNATIONAL TREATY[1] FOR THE LIMITATION AND REDUCTION OF NAVAL ARMAMENT. SIGNED AT LONDON, APRIL 22, 1930..

French and English official texts communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Treaty took place February 6, 1931.

This Treaty was transmitted to the Secretariat by the Department of State of the Government of the United States of America, March 19, 1931.

PREMIÈRE PARTIE

Article premier.

Les Hautes Parties contractantes conviennent de ne pas exercer, de 1931 à 1936 inclusivement, leur droit de mettre sur cale des bâtiments de ligne de remplacement, prévu au Chapitre II, Partie 3, du Traité[1], pour la limitation des armements navals, signé entre elles à Washington le 6 février 1922 et désigné dans le présent traité sous le nom de Traité de Washington

Cette disposition n'affecte pas l'application de la clause relative au remplacement des bâtiments perdus ou détruits accidentellement, énoncés au Chapitre II, Partie 3, Section I, paragraphe *(c)* dudit Traité.

La France et l'Italie pourront cependant construire le tonnage de remplacement qu'elles étaient autorisées à mettre sur cale en 1927 et en 1929, conformément aux dispositions dudit Traité

Article 2.

1. Les Etats-Unis, le Royaume-Uni de Grande Bretagne et d'Irlande du Nord et le Japon déclasseront les bâtiments de ligne suivants, ainsi qu'il est prescrit au présent article :

Etats-Unis :

« Florida ».
« Utah ».
« Arkansas » ou « Wyoming ».

Royaume-Uni :

« Benbow ».
« Iron Duke ».
« Marlborough ».
« Emperor of India ».
« Tiger ».

Japan :

« Hiyei ».

[1] Vol. XXV, page 201, de ce recueil.

PART I.

Article 1.

The High Contracting Parties agree not to exercise their rights to lay down the keels of capital ship replacement tonnage during the years 1931-1936 inclusive as provided in Chapter II, Part 3, of the Treaty[1] for the Limitation of Naval Armament signed between them at Washington on the 6th February, 1922, and referred to in the present Treaty as the Washington Treaty.

This provision is without prejudice to the disposition relating to the replacement of ships accidentally lost or destroyed contained in Chapter II, Part 3, Section I, paragraph *c)* of the said Treaty.

France and Italy may, however, build the replacement tonnage which they were entitled to lay down in 1927 and 1929 in accordance with the provisions of the said Treaty.

Article 2.

1. The United States, the United Kingdom of Great Britain and Northern Ireland and Japan shall dispose of the following capital ships as provided in this Article :

United States :

" Florida ".
" Utah ".
" Arkansas or Wyoming ".

United Kingdom :

" Benbow ".
" Iron Duke ".
" Marlborough ".
" Emperor of India ".
" Tiger ".

Japan :

" Hiyei ".

[1] Vol. XXV, page 201, of this Series.

a) Sous réserve des dispositions du sous-paragraphe *b)*, ces bâtiments, à moins qu'ils ne soient transformés pour servir exclusivement de cibles, en application du Chapitre II, Partie 2, paragraphe II *c)*, du Traité de Washington, seront détruits de la manière suivante :

L'un des bâtiments qui doivent être détruits par les Etats-Unis, et deux de ceux qui doivent l'être par le Royaume-Uni seront mis hors d'état de remplir un service de combat conformément au Chapitre II, Partie 2, paragraphe III*b)*, du Traité de Washington, dans les douze mois qui suivront l'entrée en vigueur du présent traité. Ces bâtiments seront définitivement détruits, conformément au paragraphe II *a)* ou *b)* de la même Partie 2, dans les vingt-quatre mois qui suivront ladite entrée en vigueur. A l'égard du deuxième bâtiment qui sera détruit par les Etats-Unis et des troisième et quatrième bâtiments qui le seront par le Royaume-Uni, les susdits délais seront de dix-huit et de trente mois, respectivement, à compter de l'entrée en vigueur du présent traité.

b) Parmi les bâtiments à déclasser conformément au présent article, les suivants pourront être conservés pour servir à l'instruction :

Par les Etats-Unis :
« Arkansas » ou « Wyoming ».

Par le Royaume-Uni :
« Iron Duke ».

Par le Japon :
« Hiyei ».

Ces navires seront mis dans l'état prescrit à la section V du l'annexe II à la partie II du présent traité. Les travaux nécessaires pour mettre ces bâtiments dans cet état commenceront, en ce qui concerne les Etats-Unis et le Royaume-Uni, dans les douze mois à compter de l'entrée en vigueur du présent traité, et, en ce qui concerne le Japon, dans les dix-huit mois à compter de la même date ; les travaux seront terminés dans les six mois qui suivront l'expiration des délais mentionnés ci-dessus.

Ceux de ces bâtiments qui ne sont pas conservés pour servir à l'instruction seront, dans les dix-huit mois, mis hors d'état de remplir un service de combat, et définitivement détruits dans les trente mois à compter de l'entrée en vigueur du présent traité.

2. Sous réserve de tout déclassement de bâtiments de ligne que pourrait rendre nécessaire,

(a) Subject to the provisions of sub-paragraph *(b)*, the above ships, unless converted to target use exclusively in accordance with Chapter II, Part 2, paragraph II *(c)* of the Washington Treaty, shall be scrapped in the following manner :

One of the ships to be scrapped by the United States, and two of those to be scrapped by the United Kingdom shall be rendered unfit for warlike service, in accordance with Chapter II, Part 2, paragraph III *(b)* of the Washington Treaty, within twelve months from the coming into force of the present Treaty. These ships shall be finally scrapped, in accordance with paragraph II *(a)* or *(b)* of the said Part 2, within twenty-four months from the said coming into force. In the case of the second of the ships to be scrapped by the United States, and of the third and fourth of the ships to be scrapped by the United Kingdom, the said periods shall be eighteen and thirty months respectively from the coming into force of the present Treaty.

b) Of the ships to be disposed of under this Article, the following may be retained for training purposes :

By the United States :
" Arkansas " or " Wyoming ".

By the United Kingdom :
" Iron Duke ".

By Japan :
" Hiye ".

These ships shall be reduced to the condition prescribed in Section V of Annex II to Part II of the present Treaty. The work of reducing these vessels to the required condition shall begin, in the case of the United States and the United Kingdom, within twelve months, and in the case of Japan within eighteen months from the coming into force of the present Treaty; the work shall be completed within six months of the expiration of the above-mentioned periods.

Any of these ships which are not retained for training purposes shall be rendered unfit for warlike service within eighteen months, and finally scrapped within thirty months, of the coming into force of the present Treaty.

2. Subject to any disposal of capital ships which might be necessitated, in accordance with

conformément au Traité de Washington, la construction par la France et l'Italie du tonnage de remplacement visé à l'article premier du présent traité, tous les bâtiments de ligne existants mentionnés au chapitre II, partie 3, section II du Traité de Washington, et non désignés ci-dessus comme devant être déclassés, pourront être conservés pendant la durée d'application du présent traité.

3. Le droit à remplacement n'est pas perdu du fait d'un retard dans la mise sur cale de bâtiments constituant le tonnage de remplacement, et l'ancien bâtiment peut être conservé jusqu'à remplacement, même si, aux termes du Chapitre II, Partie 3, Section II, du Traité de Washington, ce bâtiment devait être détruit.

Article 3.

1. Pour l'application du Traité de Washington, la définition du porte-aéronefs, donnée au Chapitre II, Partie 4 dudit traité, est remplacée par la définition suivante :

> L'expression « porte-aéronefs » comprend tout bâtiment de guerre de surface, quel qu'en soit le déplacement, spécifiquement et exclusivement conçu pour porter des aéronefs et construit de telle façon que des aéronefs puissent y prendre leur vol et s'y poser.

2. Le fait d'équiper d'une plateforme ou d'un pont d'envol ou d'atterrissage un bâtiment de ligne, un croiseur ou un destroyer, n'implique pas qu'un bâtiment ainsi équipé doive être compris ou classé dans la classe des porte-aéronefs, à moins que ce bâtiment ne soit conçu ou aménagé exclusivement pour servir de porte-aéronefs.

3. Aucun bâtiment de ligne existant au 1er avril 1930 ne sera équipé d'une plateforme ou d'un pont d'atterrissage.

Article 4.

1. Aucun porte-aéronefs d'un déplacement type de 10.000 tonnes (10.160 tonnes métriques) ou moins, et portant un canon d'un calibre supérieur à 155 millimètres (6,1 pouces), ne sera acquis par l'une des Hautes Parties contractantes ou construit par elle ou pour elle.

2. A partir de l'entrée en vigueur du présent traité pour toutes les Hautes Parties contrac-

the Washington Treaty, by the building by France or Italy of the replacement tonnage referred to in Article 1 of the present Treaty, all existing capital ships mentioned in Chapter II, Part 3, Section II of the Washington Treaty and not designated above to be disposed of may be retained during the term of the present Treaty.

3. The right of replacement is not lost by delay in laying down replacement tonnage, and the old vessel may be retained until replaced even though due for scrapping under Chapter II, Part 3, Section II of the Washington Treaty.

Article 3.

1. For the purposes of the Washington Treaty, the definition of an aircraft carrier given in Chapter II, Part 4, of the said Treaty is hereby replaced by the following definition :

> The expression " aircraft carrier " includes any surface vessel of war, whatever its displacement, designed for the specific and exclusive purpose of carrying aircraft and so constructed that aircraft can be launched therefrom and landed thereon.

2. The fitting of a landing-on or flying-off platform or deck on a capital ship, cruiser or destroyer, provided such vessel was not designed or adapted exclusively as an aircraft carrier, shall not cause any vessel so fitted to be charged against or classified in the category of aircraft carriers.

3. No capital ship in existence on the 1st April, 1930, shall be fitted with a landing-on platform or deck

Article 4.

1. No aircraft carrier of 10,000 tons (10,160 metric tons) or less standard displacement mounting a gun above 6.1 inch (155 mm.) calibre shall be acquired by or constructed by or for any of the High Contracting Parties.

2. As from the coming into force of the present Treaty in respect of all the High Con-

tantes, aucun porte-aéronefs d'un déplacement type de 10.000 tonnes (10.160 tonnes métriques) ou moins, et portant un canon d'un calibre supérieur à 155 millimétres (6,1 pouces) ne sera construit dans la juridiction de l'une des Hautes Parties contractantes.

Article 5.

Le plan et la construction d'un porte-aéronefs ne doivent pas lui permettre de porter un armement plus puissant que celui qui est autorisé pour lui par l'article IX ou l'article X du Traité de Washington ou par l'article 4 du présent traité, suivant le cas.

Lorsque le calibre de 152 millimètres (6 pouces) est mentionné dans lesdits articles IX et X, le calibre de 155 millimètres (6,1 pouces) doit lui être substitué.

PARTIE II

Article 6.

1. Les règles énoncées au Chapitre II, Partie 4, du Traité de Washington pour la détermination du déplacement type s'appliqueront à tous les bâtiments de guerre de surface de chacune des Hautes Parties contractantes.

2. Le déplacement type d'un sous-marin est le déplacement en surface du bâtiment achevé (non compris l'eau des compartiments non étanches) avec son équipage complet, son appareil moteur, prêt à prendre la mer, ayant tout son armement et toutes ses munitions, ses installations, équipements, vivres pour l'équipage, outillages divers et rechanges de toute nature qu'il doit emporter en temps de guerre, mais sans combustible, huile lubrifiante, eau douce ou eau de ballast de toute sorte.

3. Le déplacement de chaque bâtiment combattant de la flotte militaire est évalué lorsque ce bâtiment se trouve dans les conditions type. Le mot « tonne », sauf dans l'expression « tonnes métriques », désigne une tonne de 1.016 kg. (2.240 lbs.).

Article 7.

1. Aucun sous-marin de déplacement type supérieur à 2.000 tonnes (2.032 tonnes métri-

tracting Parties, no aircraft carrier of 10.000 tons (10,160 metric tons) or less standard displacement mounting a gun above 6.1-inch (155 mm.) calibre shall be constructed within the jurisdiction of any of the High Contracting Parties.

Article 5.

An aircraft carrier must not be designed and constructed for carrying a more powerful armament than that authorised by Article IX or Article X of the Washington Treaty, or by Article 4 of the present Treaty, as the case may be.

Wherever in the said Articles IX and X the calibre of inches (152 mm.) is mentioned, the calibre of 6.1-inches (155 mm.) is substituted therefor.

PART II.

Article 6.

1. The rules for determining standard displacement prescribed in Chapter II, Part 4 of the Washington Treaty shall apply to all surface vessels of war of each of the High Contracting Parties.

2. The standard displacement of a submarine is the surface displacement of the vessel complete (exclusive of the water in non-watertight structure) fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions for crew, miscellaneous stores, and implements of every description that are intended to be carried in war, but without fuel, lubricating oil, fresh water or ballast water of any kind on board.

3 Each naval combatant vessel shall be rated at its displacement tonnage when in the standard condition. The word " ton " except in the expression " metric tons ", shall be understood to be the ton of 2,240 pounds (1,016 kg.).

Article 7.

1. No submarine the standard displacement of which exceeds 2,000 tons (2,032 metric tons)

ques) ou armé d'un canon d'un calibre supérieur à 130 millimètres (5,1 pouces) ne sera acquis par l'une des Hautes Parties contractantes ou construit par elle ou pour elle.

2. Chacune des Hautes Parties contractantes peut, toutefois, conserver, construire ou acquérir un nombre maximum de trois sous-marins d'un déplacement type n'excédant pas 2.800 tonnes (2.845 tonnes métriques) ; ces sous-marins peuvent porter une artillerie d'un calibre ne dépassant pas 155 millimètres (6,1 pouces) Dans ce nombre, la France peut conserver une unité déjà lancée de 2.880 tonnes (2.926 tonnes métriques) portant une artillerie d'un calibre de 203 millimètres (8 pouces).

3. Les Hautes Parties contractantes peuvent conserver les sous-marins qu'elles possédaient au 1er avril 1930, dont le déplacement type n'excède pas 2.000 tonnes (2.032 tonnes métriques) et dont le calibre de l'artillerie dépasse 130 millimètres (5,1 pouces).

4. A partir de l'entrée en vigueur du présent traité pour toutes les Hautes Parties contractantes, aucun sous-marin de déplacement type supérieur à 2.000 tonnes (2.032 tonnes métriques) ou armé d'un canon d'un calibre supérieur à 130 millimètres (5,1 pouces) ne sera construit dans la juridiction de l'une des Hautes Parties contractantes, sous réserve des dispositions du paragraphe 2 du présent article.

Article 8.

Sous réserve d'accords spéciaux qui les soumettraient à une limitation, les bâtiments ci-après n'y sont pas sujets :

a) Les bâtiments combattants de surface de la flotte militaire dont le déplacement type est égal ou inférieur à 600 tonnes (610 tonnes métriques) ;

b) Les bâtiments combattants de surface de la flotte militaire dont le déplacement type dépasse 600 tonnes (610 tonnes métriques), mais ne dépasse pas 2.000 tonnes (2.032 tonnes métriques), à conditon qu'ils n'aient aucune des caractéristiques suivantes :

1° Etre armé d'une pièce d'un calibre supérieur à 155 millimètres (6,1 pouces) ;

2° Etre armé de plus de quatre pièces d'un calibre supérieur à 76 millimètres (3 pouces) ;

or with a gun above 5.1-inch (130 mm.) calibre shall be acquired by or constructed by or for any of the High Contracting Parties.

2. Each of the High Contracting Parties may, however, retain, build or acquire a maximum number of three submarines of a standard displacement not exceeding 2,800 tons (2.845 metric tons) ; these submarines may carry guns not above 6.1-inch (155 mm.) calibre. Within this number, France may retain one unit, already launched, of 2,880 tons (2,926 metric tons), with guns the calibre of which is 8 inches (203 mm.)

3. The High Contracting Parties may retain the submarines which they possessed on the 1st April, 1930, having a standard displacement not in excess of 2,000 tons (2,032 metric tons) and armed with guns above 5.1-inch (130 mm.) calibre.

4. As from the coming into force of the present Treaty in respect of all the High Contracting Parties, no submarine the standard displacement of which exceeds 2.000 tons (2,032 metric tons) or with a gun avove 5.1-inch (130 mm.) calibre shall be constructed within the jurisdiction of any of the High Contracting Parties, except as provided in paragraph 2 of this Article.

Article 8.

Subject to any special agreements which may submit them to limitation, the following vessels are exempt from limitation :

(a) Naval surface combatant vessels of 600 tons (610 metric tons) standard displacement and under ;

(b) Naval surface combatant vessels exceeding 600 tons (610 metric tons), but not exceeding 2,000 tons (2.032 metric tons) standard displacement, provided they have none of the following characteristics :

(1) Mount a gun above 6.1-inch (155 mm.) calibre ;

(2) Mount more than four guns above 3-inch (76 mm.) calibre ;

3° Etre conçu ou équipé pour lancer des torpilles ;

4° Etre conçu pour une vitesse supérieure à vingt nœuds.

c) Les bâtiments de surface de la flotte militaire qui, n'étant pas spécifiquement construits comme navires combattants, sont utilisés pour le service de la flotte, ou comme transports de troupes, ou pour tout emploi autre que celui de navire combattant, à condition qu'ils n'aient aucune des caractéristiques suivantes :

1° Etre armé d'une pièce d'un calibre supérieur à 155 millimètres (6,1 pouces) ;

2° Etre armé de plus de quatre pièces d'un calibre supérieur à 76 millimètres (3 pouces) ;

3° Etre conçu ou équipé pour lancer des torpilles ;

4° Etre conçu pour une vitesse supérieure à vingt nœuds ;

5° Etre protégé par des plaques de blindage ;

6° Etre conçu ou équipé pour mouiller des mines ;

7° Etre équipé pour l'atterrissage d'aéronefs à bord ;

8° Avoir à bord plus d'un appareil pour lancer des aéronefs, si cet appareil est placé dans l'axe du bâtiment, ou plus de deux, si ces appareils sont placés un de chaque bord ;

9° Etant équipé d'un moyen quelconque de lancement des aéronefs dans l'air, être conçu ou aménagé pour mettre en action en mer plus de trois aéronefs.

Article 9.

Les règles de remplacement énoncées à l'annexe I de la présente partie II sont applicables aux bâtiments de guerre dont le déplacement type ne dépasse pas 10.000 tonnes (10.160 tonnes métriques). Il est fait exception pour les porte-aéronefs, leur remplacement étant régi par le Traité de Washington.

Article 10.

Dans le mois qui suivra respectivement la date de mise sur cale et la date d'achèvement,

(3) Are designed or fitted to launch torpedoes ;

(4) Are designed for a speed greater than twenty knots.

(c) Naval surface vessels not specifically built as fighting ships which are employed on fleet duties or as troop transports or in some other way than as fighting ships, provided they have none of the following characteristics. :

(1) Mount a gun above 6.1-inch (155 mm.) calibre ;

(2) Mount more than four guns above 3-inch (76 mm.) calibre ;

(3) Are designed or fitted to launch torpedoes ;

(4) Are designed for a speed greater than twenty knots ;

(5) Are protected by armour plate ;

(6) Are designed or fitted to launch mines ;

(7) Are fitted to receive aircraft on board from the air ;

(8) Mount more than one aircraft-launching apparatus on the centre line ; or two, one on each broadside ;

(9) If fitted with any means of launching aircraft into the air, are designed or adapted to operate at sea more than three aircraft.

Article 9.

The rules as to replacement contained in Annex I to this Part II are applicable to vessels of war not exceeding 10,000 tons (10,160 metric tons) standard displacement, with the exception of aircraft carriers, whose replacement is governed by the provisions of the Washington Treaty.

Article 10.

Within one month after the date of laying down and the date of completion respectively

les Hautes Parties contractantes se communiqueront mutuellement tous les renseignements indiqués ci-dessous au sujet de tous bâtiments de guerre mis sur cale ou achevés par elles ou pour elles après l'entrée en vigueur du présent traité, à l'exception des bâtiments de ligne, des porte-aéronefs et des bâtiments qui sont exempts de limitation conformément à l'article 8 :

a) La date de la mise sur cale avec les indications suivantes :

Classification du bâtiment ;
Déplacement type en tonnes et en tonnes métriques ;
Dimensions principales, à savoir : longueur à la ligne de flottaison, largeur maximum à ou sous la ligne de flottaison ;
Tirant d'eau moyen correspondant au déplacement type ;
Calibre du plus gros canon.

b) La date d'achèvement, ainsi que les indications qui précèdent, relatives au bâtiment à cette date.

Les renseignements à fournir pour les bâtiments de ligne et les porte-aéronefs sont régis par le Traité de Washington.

Article 11.

Sous réserve des dispositions de l'article 2 du présent traité, les règles de déclassement contenues dans l'annexe II à la présente partie II s'appliqueront à tous les bâtiments de guerre à déclasser en vertu dudit traité, ainsi qu'aux porte-aéronefs définis à l'article 3.

Article 12.

1. Sous réserve de tous accords supplémentaires qui pourraient modifier entre les Hautes Parties contractantes intéressées les listes figurant à l'annexe III à la présente partie II, les bâtiments spéciaux indiqués à ladite annexe pourront être conservés et leur tonnage ne sera pas compris dans le tonnage limitable.

2. Tout autre bâtiment construit, transformé ou acquis pour les fins en vue desquelles les bâtiments spéciaux sont conservés sera imputé sur le tonnage de la classe combattante appropriée, suivant les caractéristiques du bâtiment, à moins que celui-ci ne soit conforme aux caractéristiques des bâtiments non sujets à limitation en vertu de l'article 8.

of each vessel of war, other than capital ships, aircraft carriers and the vessels exempt from limitation under Article 8, laid down or completed by or for them after the coming into force of the present Treaty, the High Contracting Parties shall communicate to each of the other High Contracting Parties the information detailed below :

(a) The date of laying the keel and the following particulars :

Classification of the vessel ;
Standard displacement in tons and metric tons ;
Principal dimensions, namely : length at water-line, extreme beam at or below water-line ;
Mean draft at standard displacement ;

Calibre of the largest gun.

(b) The date of completion together with the foregoing particulars relating to the vessel at that date.

The information to be given in the case of capital ships and aircraft carriers is governed by the Washington Treaty.

Article 11.

Subject to the provisions of Article 2 of the present Treaty, the rules for disposal contained in Annex II to this Part II shall be applied to all vessels of war to be disposed of under the said Treaty, and to aircraft carriers as defined in Article 3.

Article 12.

1. Subject to any supplementary agreements which may modify, as between the High Contracting Parties concerned, the lists in Annex III to this Part II, the special vessels shown therein may be retained and their tonnage shall not be included in the tonnage subject to limitation.

2. Any other vessel constructed, adapted or acquired to serve the purposes for which these special vessels are retained shall be charged against the tonnage of the appropriate combatant category, according to the characteristics of the vessel, unless such vessel conforms to the characteristics of vessels exempt from limitation under Article 8.

3. Le Japon peut toutefois remplacer les mouilleurs de mines « Aso » et « Tokiwa » par deux nouveaux mouilleurs de mines avant le 31 décembre 1936. Le déplacement type des nouveaux bâtiments n'excédera pas 5.000 tonnes (5.080 tonnes métriques) ; leur vitesse ne sera pas supérieure à vingt nœuds, et leurs autres caractéristiques seront conformes à celles qui sont définies au paragraphe *b)* de l'article 8. Les nouveaux bâtiments seront considérés comme des bâtiments spéciaux et leur tonnage ne sera compris dans le tonnage d'aucune des catégories combattantes. L'« Aso » et le « Tokiwa » seront déclassés, conformément à la section I ou à la section II de l'annexe II à la présente partie II, lors de l'achèvement des bâtiments de remplacement.

4. Les bâtiments « Asama », « Yakumo », « Izumo », « Iwate » et « Kasuga » seront déclassés conformément à la section I ou à la section II de l'annexe II à la présente partie II, quand les trois premiers bâtiments du type « Kuma » auront été remplacés par des bâtiments nouveaux. Ces trois bâtiments du type « Kuma » seront mis dans l'état prescrit au sous-paragraphe *b)* 2 de la section V de l'annexe II à la présente partie II ; ils seront employés comme bâtiments-écoles et, dans la suite, leur tonnage ne sera pas compris dans le tonnage limitable.

Article 13.

Les bâtiments existants de différents types qui, avant le 1er avril 1930, étaient utilisés comme établissements fixes d'instruction ou comme pontons peuvent être conservés dans un état qui ne leur permette pas de prendre la mer.

3. Japan may, however, replace the minelayers " Aso " and " Tokiwa " by two new minelayers before the 31st December, 1936. The standard displacement of each of the new vessels shall not exceed 5,000 tons (5,080 metric tons) their speed shall not exceed twenty knots, and their other characteristics shall conform to the provisions of paragraph *(b)* of Article 8. The new vessels shall be regarded as special vessels and their tonnage shall not be chargeable to the tonnage of any combatant category. The " Aso " and " Tokiwa " shall be disposed of in accordance with Section I or II of Annex II to this Part II, on completion of the replacement vessels.

4. The " Asama ", " Yakumo ", " Izumo ", " Iwate " and " Kasuga " shall be disposed of in accordance with Section I or II of Annex II to this Part II when the first three vessels of the " Kuma " class have been replaced by new vessels. These three vessels of the " Kuma " class shall be reduced to the condition prescribed in Section V, sub-paragraph *(b)* 2 of Annex II to this Part II, and are to be used for training ships, and their tonnage shall not thereafter be included in the tonnage subject to limitation.

Article 13.

Existing ships of various types, which, prior to the 1st April, 1930, have been used as stationary training establishments or hulks, may be retained in a non-seagoing condition.

Second London Naval Treaty, March 25, 1936*

* 50 Stat. 1363; T.S. 919; 184 L.N.T.S. 117.

No. 4246. — TREATY[1] FOR THE LIMITATION OF NAVAL ARMAMENT. SIGNED AT LONDON, MARCH 25TH, 1936.

French and English official texts communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Treaty took place January 5th, 1938.

THE PRESIDENT OF THE UNITED STATES OF AMERICA, THE PRESIDENT OF THE FRENCH REPUBLIC and HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA ;

Desiring to reduce the burdens and prevent the dangers inherent in competition in naval armament ;

Desiring, in view of the forthcoming expiration of the Treaty[2] for the Limitation of Naval Armament signed at Washington on the 6th February, 1922, and of the Treaty[3] for the Limitation and Reduction of Naval Armament signed in London on the 22nd April, 1930 (save for Part IV thereof), to make provision for the limitation of naval armament, and for the exchange of information concerning naval construction ;

Have resolved to conclude a Treaty for these purposes and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE UNITED STATES OF AMERICA :

The Honourable Norman H. DAVIS ;
Admiral William H. STANDLEY, United States Navy, Chief of Naval Operations ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

His Excellency Monsieur Charles CORBIN, Ambassador Extraordinary and Plenipotentiary of the French Republic at the Court of St. James ;
Vice-Admiral Georges ROBERT, Member of the Supreme Naval Council, Inspector-General of the Naval Forces in the Mediterranean ;

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

FOR GREAT BRITAIN AND NORTHERN IRELAND AND ALL PARTS OF THE BRITISH EMPIRE WHICH ARE NOT SEPARATE MEMBERS OF THE LEAGUE OF NATIONS :

The Right Honourable Anthony EDEN, M.C., M.P., His Principal Secretary of State for Foreign Affairs ;
The Right Honourable Viscount MONSELL, G.B.E., First Lord of His Admiralty ;
Lieutenant-Colonel the Earl STANHOPE, K.G., D.S.O., M.C., D.L., Parliamentary Under Secretary of State for Foreign Affairs ;

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[1] *Ratifications deposited in London :*

UNITED STATES OF AMERICA	July 2nd, 1936.
FRANCE	June 24th, 1937.
UNITED KINGDOM, CANADA, AUSTRALIA, NEW ZEALAND, INDIA	July 29th, 1937.

Came into force July 29th, 1937.

[2] Vol. XXV, page 201, of this Series.

[3] Vol. CXII, page 65 ; and Vol. CXVII, page 331, of this Series.

FOR THE DOMINION OF CANADA :

The Honourable Vincent MASSEY, High Commissioner for the Dominion of Canada in London ;

FOR THE COMMONWEALTH OF AUSTRALIA :

The Right Honourable Stanley Melbourne BRUCE, C.H., M.C., High Commissioner for the Commonwealth of Australia in London ;

FOR THE DOMINION OF NEW ZEALAND :

The Honourable Sir Christopher James PARR, G.C.M.G., High Commissioner for the Dominion of New Zealand in London ;

FOR INDIA :

Richard Austen BUTLER, Esquire, M.P., Parliamentary Under Secretary of State for India ;

Who, having communicated to one another their full powers, found in good and due form, have agreed as follows :

PART I.

DEFINITIONS.

Article 1.

For the purposes of the present Treaty, the following expressions are to be understood in the sense hereinafter defined.

A. — *Standard Displacement.*

(1) The standard displacement of a surface vessel is the displacement of the vessel, complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

(2) The standard displacement of a submarine is the surface displacement of the vessel complete (exclusive of the water in non-watertight structure), fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel, lubricating oil, fresh water or ballast water of any kind on board.

(3) The word " ton " except in the expression " metric tons " denotes the ton of 2,240 lb. (1,016 kilos).

B. — *Categories.*

(1) *Capital Ships* are surface vessels of war belonging to one of the two following sub-categories :

(a) Surface vessels of war, other than aircraft-carriers, auxiliary vessels, or capital ships of sub-category *(b)*, the standard displacement of which exceeds 10,000 tons (10,160 metric tons) or which carry a gun with a calibre exceeding 8 in. (203 mm.) ;

(b) Surface vessels of war, other than aircraft-carriers, the standard displacement of which does not exceed 8,000 tons (8,128 metric tons) and which carry a gun with a calibre exceeding 8 in. (203 mm.).

(2) *Aircraft-Carriers* are surface vessels of war, whatever their displacement, designed or adapted primarily for the purpose of carrying and operating aircraft at sea. The fitting of a landing-on or flying-off deck on any vessel of war, provided such vessel has not been designed or adapted primarily for the purpose of carrying and operating aircraft at sea, shall not cause any vessel so fitted to be classified in the category of aircraft-carriers.

The category of aircraft-carriers is divided into two sub-categories as follows :

(a) Vessels fitted with a flight deck, from which aircraft can take off, or on which aircraft can land from the air ;

(b) Vessels not fitted with a flight deck as described in *(a)* above.

(3) *Light Surface Vessels* are surface vessels of war other than aircraft-carriers, minor war vessels or auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 10,000 tons (10,160 metric tons), and which do not carry a gun with a calibre exceeding 8 in. (203 mm.).

The category of light surface vessels is divided into three sub-categories as follows :

(a) Vessels which carry a gun with a calibre exceeding 6.1 in. (155 mm.) ;

(b) Vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which exceeds 3,000 tons (3,048 metric tons) ;

(c) Vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which does not exceed 3,000 tons (3,048 metric tons).

(4) *Submarines* are all vessels designed to operate below the surface of the sea.

(5) *Minor War Vessels* are surface vessels of war, other than auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 2,000 tons (2,032 metric tons), provided they have none of the following characteristics :

(a) Mount a gun with a calibre exceeding 6.1 in. (155 mm.) ;
(b) Are designed or fitted to launch torpedoes ;
(c) Are designed for a speed greater than twenty knots.

(6) *Auxiliary Vessels* are naval surface vessels the standard displacement of which exceeds 100 tons (102 metric tons), which are normally employed on fleet duties or as troop transports, or in some other way than as fighting ships, and which are not specifically built as fighting ships, provided they have none of the following characteristics :

(a) Mount a gun with a calibre exceeding 6.1 in. (155 mm.) ;
(b) Mount more than eight guns with a calibre exceeding 3 in. (76 mm.) ;

(c) Are designed or fitted to launch torpedoes ;
(d) Are designed for protection by armour plate ;
(e) Are designed for a speed greater than twenty-eight knots ;
(f) Are designed or adapted primarily for operating aircraft at sea ;

(g) Mount more than two aircraft-launching apparatus.

(7) *Small Craft* are naval surface vessels the standard displacement of which does not exceed 100 tons (102 metric tons).

C. — *Over Age.*

Vessels of the following categories and sub-categories shall be deemed to be " over-age " when the undermentioned number of years have elapsed since completion :

(a)	Capital ships	26 years.
(b)	Aircraft-carriers	20 years.
(c)	Light surface vessels, sub-categories *(a)* and *(b)* :	
	(i) If laid down before 1st January, 1920	16 years.
	(ii) If laid down after 31st December, 1919	20 years.
(d)	Light surface vessels, sub-category *(c)*	16 years.
(e)	Submarines	13 years.

D. — *Month.*

The word " month " in the present Treaty with reference to a period of time denotes the month of thirty days.

PART II.

LIMITATION.

Article 2.

After the date of the coming into force of the present Treaty, no vessel exceeding the limitations as to displacement or armament prescribed by this Part of the present Treaty shall be acquired by any High Contracting Party or constructed by, for or within the jurisdiction of any High Contracting Party.

Article 3.

No vessel which at the date of the coming into force of the present Treaty carries guns with a calibre exceeding the limits prescribed by this Part of the present Treaty shall, if reconstructed or modernised, be rearmed with guns of a greater calibre than those previously carried by her.

Article 4.

(1) No capital ship shall exceed 35,000 tons (35,560 metric tons) standard displacement.

(2) No capital ship shall carry a gun with a calibre exceeding 14 in. (356 mm.) ; provided however that if any of the Parties to the Treaty for the Limitation of Naval Armament signed at Washington on the 6th February, 1922, should fail to enter into an agreement to conform to this provision prior to the date of the coming into force of the present Treaty, but in any case not later than the 1st April, 1937, the maximum calibre of gun carried by capital ships shall be 16 in. (406 mm.).

(3) No capital ship of sub-category *(a)*, the standard displacement of which is less than 17,500 tons (17,780 metric tons), shall be laid down or acquired prior to the 1st January, 1943.

(4) No capital ship, the main armament of which consists of guns of less than 10 in. (254 mm.) calibre, shall be laid down or acquired prior to the 1st January, 1943.

Article 5.

(1) No aircraft-carrier shall exceed 23,000 tons (23,368 metric tons) standard displacement or carry a gun with a calibre exceeding 6.1 in. (155 mm.).

(2) If the armament of any aircraft-carrier includes guns exceeding 5.25 in. (134 mm.) in calibre, the total number of guns carried which exceed that calibre shall not be more than ten.

Article 6.

(1) No light surface vessel of sub-category *(b)* exceeding 8,000 tons (8,128 metric tons) standard displacement, and no light surface vessel of sub-category *(a)* shall be laid down or acquired prior to the 1st January, 1943.

(2) Notwithstanding the provisions of paragraph (1) above, if the requirements of the national security of any High Contracting Party are, in His opinion, materially affected by the actual or authorised amount of construction by any Power of light surface vessels of sub-category *(b)*, or of light surface vessels not conforming to the restrictions of paragraph (1) above, such High Contracting Party shall, upon notifying the other High Contracting Parties of His intentions and the reasons therefor, have the right to lay down or acquire light surface vessels of sub-categories *(a)* and *(b)* of any standard displacement up to 10,000 tons (10,160 metric tons) subject to the observance of the provisions of Part III of the present Treaty. Each of the other High Contracting Parties shall thereupon be entitled to exercise the same right.

(3) It is understood that the provisions of paragraph (1) above constitute no undertaking expressed or implied to continue the restrictions therein prescribed after the year 1942.

Article 7.

No submarine shall exceed 2,000 tons (2,032 metric tons) standard displacement or carry a gun exceeding 5.1 in. (130 mm.) in calibre.

Article 8.

Every vessel shall be rated at its standard displacement, as defined in Article 1A of the present Treaty.

Article 9.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6.1 in. (155 mm.) in calibre.

Article 10.

Vessels which were laid down before the date of the coming into force of the present Treaty, the standard displacement or armament of which exceeds the limitations or restrictions prescribed in this Part of the present Treaty for their category or sub-category, or vessels which before that date were converted to target use exclusively or retained exclusively for experimental or training purposes under the provisions of previous treaties, shall retain the category or designation which applied to them before the said date.

PART III.

Advance Notification and Exchange of Information.

Article 11.

(1) Each of the High Contracting Parties shall communicate every year to each of the other High Contracting Parties information, as hereinafter provided, regarding His annual programme for the construction and acquisition of all vessels of the categories and sub-categories mentioned in Article 12 *(a)*, whether or not the vessels concerned are constructed within His own jurisdiction, and periodical information giving details of such vessels and of any alterations to vessels of the said categories or sub-categories already completed.

(2) For the purposes of this and the succeeding Parts of the present Treaty, information shall be deemed to have reached a High Contracting Party on the date upon which such information is communicated to His Diplomatic Representatives accredited to the High Contracting Party by whom the information is given.

(3) This information shall be treated as confidential until published by the High Contracting Party supplying it.

Article 12.

The information to be furnished under the preceding Article in respect of vessels constructed by or for a High Contracting Party shall be given as follows ; and so as to reach all the other High Contracting Parties within the periods or at the times mentioned :

(a) Within the first four months of each calendar year, the Annual Programme of construction of all vessels of the following categories and sub-categories, stating the number of vessels of each category or sub-catergoy and, for each vessel, the calibre of of the largest gun. The categories and sub-categories in question are :

Capital Ships :

sub-category *(a)*
sub-category *(b)*

Aircraft-Carriers :

sub-category *(a)*
sub-category *(b)*

Light Surface Vessels :

sub-category *(a)*
sub-category *(b)*
sub-category *(c)*

Submarines.

(b) Not less than four months before the date of the laying of the keel, the following particulars in respect of each such vessel :

Name or designation ;
Category and sub-category ;
Standard displacement in tons and metric tons ;
Length at waterline at standard displacement ;
Extreme beam at or below waterline at standard displacement ;

Mean draught at standard displacement ;

Designed horse-power ;
Designed speed ;
Type of machinery ;
Type of fuel ;
Number and calibre of all guns of 3 in. (76 mm.) calibre and above ;

Approximate number of guns of less than 3 in. (76 mm.) calibre ;
Number of torpedo tubes ;
Whether designed to lay mines ;
Approximate number of aircraft for which provision is to be made.

(c) As soon as possible after the laying-down of the keel of each such vessel, the date on which it was laid.

(d) Within one month after the date of completion of each such vessel, the date of completion together with all the particulars specified in paragraph *(b)* above relating to the vessel on completion.

(e) Annually during the month of January, in respect of vessels belonging to the categories and sub-categories mentioned in paragraph *(a)* above :

(i) Information as to any important alterations which it may have proved necessary to make during the preceding year in vessels under construction, in so far as these alterations affect the particulars mentioned in paragraph *(b)* above.

(ii) Information as to any important alterations made during the preceding year in vessels previously completed, in so far as these alterations affect the particulars mentioned in paragraph *(b)* above.

(iii) Information concerning vessels which may have been scrapped or otherwise disposed of during the preceding year. If such vessels are not scrapped, sufficient information shall be given to enable their new status and condition to be determined.

(f) Not less than four months before undertaking such alterations as would cause a completed vessel to come within one of the categories or sub-categories mentioned in paragraph *(a)* above, or such alterations as would cause a vessel to change from one to another of the said categories or sub-categories : information as to her intended characteristics as specified in paragraph *(b)* above.

Article 13.

No vessel coming within the categories or sub-categories mentioned in Article 12 *(a)* shall be laid down by any High Contracting Party until after the expiration of a period of four months both from the date on which the Annual Programme in which the vessel is included, and from the date on which the particulars in respect of that vessel prescribed by Article 12 *(b)*, have reached all the other High Contracting Parties.

Article 14.

If a High Contracting Party intends to acquire a completed or partially completed vessel coming within the categories or sub-categories mentioned in Article 12 *(a)*, that vessel shall be declared at the same time and in the same manner as the vessels included in the Annual Programme prescribed in the said Article. No such vessel shall be acquired until after the expiration of a period of four months from the date on which such declaration has reached all the other High Contracting Parties. The particulars mentioned in Article 12 *(b)*, together with the date on which the keel was laid, shall be furnished in respect of such vessel so as to reach all the other High Contracting Parties within one month after the date on which the

contract for the acquisition of the vessel was signed. The particulars mentioned in Article 12 *(d)*, *(e)* and *(f)* shall be given as therein prescribed.

Article 15.

At the time of communicating the Annual Programme prescribed by Article 12 *(a)*, each High Contracting Party shall inform all the other High Contracting Parties of all vessels included in His previous Annual Programmes and declarations that have not yet been laid down or acquired, but which it is the intention to lay down or acquire during the period covered by the first mentioned Annual Programme.

Article 16.

If, before the keel of any vessel coming within the categories or sub-categories mentioned in Article 12 *(a)* is laid, any important modification is made in the particulars regarding her which have been communicated under Article 12 *(b)*, information concerning this modification shall be given, and the laying of the keel shall be deferred until at least four months after this information has reached all the other High Contracting Parties.

Article 17.

No High Contracting Party shall lay down or acquire any vessel of the categories or sub-categories mentioned in Article 12 *(a)*, which has not previously been included in His Annual Programme of construction or declaration of acquisition for the current year or in any earlier Annual Programme or declaration.

Article 18.

If the construction, modernisation or reconstruction of any vessel coming within the categories or sub-categories mentioned in Article 12 *(a)*, which is for the order of a Power not a party to the present Treaty, is undertaken within the jurisdiction of any High Contracting Party, He shall promptly inform all the other High Contracting Parties of the date of the signing of the contract and shall also give as soon as possible in respect of the vessel all the information mentioned in Article 12 *(b)*, *(c)* and *(d)*.

Article 19.

Each High Contracting Party shall give lists of all His minor war vessels and auxiliary vessels with their characteristics, as enumerated in Article 12 *(b)*, and information as to the particular service for which they are intended, so as to reach all the other High Contracting Parties within one month after the date of the coming into force of the present Treaty ; and, so as to reach all the other High Contracting Parties within the month of January in each subsequent year, any amendments in the lists and changes in the information.

Article 20.

Each of the High Contracting Parties shall communicate to each of the other High Contracting Parties, so as to reach the latter within one month after the date of the coming into force of the present Treaty, particulars, as mentioned in Article 12 *(b)*, of all vessels of the categories or sub-categories mentioned in Article 12 *(a)*, which are then under construction for Him, whether

or not such vessels are being constructed within His own jurisdiction, together with similar particulars relating to any such vessels then under construction within His own jurisdiction for a Power not a party to the present Treaty.

Article 21.

(1) At the time of communicating His initial Annual Programme of construction and declaration of acquisition, each High Contracting Party shall inform each of the other High Contracting Parties of any vessels of the categories or sub-categories mentioned in Article 12 *(a)*, which have been previously authorised and which it is the intention to lay down or acquire during the period covered by the said Programme.

(2) Nothing in this Part of the present Treaty shall prevent any High Contracting Party from laying down or acquiring, at any time during the four months following the date of the coming into force of the Treaty, any vessel included, or to be included, in His initial Annual Programme of construction or declaration of acquisition, or previously authorised, provided that the information prescribed by Article 12 *(b)* concerning each vessel shall be communicated so as to reach all the other High Contracting Parties within one month after the date of the coming into force of the present Treaty.

(3) If the present Treaty should not come into force before the 1st May, 1937, the initial Annual Programme of construction and declaration of acquisition, to be communicated under Articles 12 *(a)* and 14 shall reach all the other High Contracting Parties within one month after the date of the coming into force of the present Treaty.

PART IV.

General and Safeguarding Clauses.

Article 22.

No High Contracting Party shall, by gift, sale or any mode of transfer, dispose of any of His surface vessels of war or submarines in such a manner that such vessel may become a surface vessel of war or a submarine in any foreign navy. This provision shall not apply to auxiliary vessels.

Article 23.

(1) Nothing in the present Treaty shall prejudice the right of any High Contracting Party, in the event of loss or accidental destruction of a vessel, before the vessel in question has become over-age, to replace such vessel by a vessel of the same category or sub-category as soon as the particulars of the new vessel mentioned in Article 12 *(b)* shall have reached all the other High Contracting Parties.

(2) The provisions of the preceding paragraph shall also govern the immediate replacement, in such circumstances, of a light surface vessel of sub-category *(b)* exceeding 8,000 tons (8,128 metric tons) standard displacement, or of a light surface vessel of sub-category *(a)*, before the vessel in question has become over-age, by a light surface vessel of the same sub-category of any standard displacement up to 10,000 tons (10,160 metric tons).

Article 24.

(1) If any High Contracting Party should become engaged in war, such High Contracting Party may, if He considers the naval requirements of His defence are materially affected,

suspend, in so far as He is concerned, any or all of the obligations of the present Treaty, provided that He shall promptly notify the other High Contracting Parties that the circumstances require such suspension, and shall specify the obligations it is considered necessary to suspend.

(2) The other High Contracting Parties shall in such case promptly consult together, and shall examine the situation thus presented with a view to agreeing as to the obligations of the present Treaty, if any, which each of the said High Contracting Parties may suspend. Should such consultation not produce agreement, any of the said High Contracting Parties may suspend, in so far as He is concerned, any or all of the obligations of the present Treaty, provided that He shall promptly give notice to the other High Contracting Parties of the obligations which it is considered necessary to suspend.

(3) On the cessation of hostilities, the High Contracting Parties shall consult together with a view to fixing a date upon which the obligations of the Treaty which have been suspended shall again become operative, and to agreeing upon any amendments in the present Treaty which may be considered necessary.

Article 25.

(1) In the event of any vessel not in conformity with the limitations and restrictions as to standard displacement and armament prescribed by Articles 4, 5 and 7 of the present Treaty being authorised, constructed or acquired by a Power not a party to the present Treaty, each High Contracting Party reserves the right to depart if, and to the extent to which, He considers such departures necessary in order to meet the requirements of His national security;

(a) During the remaining period of the Treaty, from the limitations and restrictions of Articles 3, 4, 5, 6 (1) and 7, and

(b) During the current year, from His Annual Programmes of construction and declarations of acquisition.

This right shall be exercised in accordance with the following provisions:

(2) Any High Contracting Party who considers it necessary that such right should be exercised, shall notify the other High Contracting Parties to that effect, stating precisely the nature and extent of the proposed departures and the reasons therefor.

(3) The High Contracting Parties shall thereupon consult together and endeavour to reach an agreement with a view to reducing to a minimum the extent of the departures which may be made.

(4) On the expiration of a period of three months from the date of the first of any notifications which may have been given under paragraph (2) above, each of the High Contracting Parties shall, subject to any agreement which may have been reached to the contrary, be entitled to depart during the remaining period of the present Treaty from the limitations and restrictions prescribed in Articles 3, 4, 5, 6 (1) and 7 thereof.

(5) On the expiration of the period mentioned in the preceding paragraph, any High Contracting Party shall be at liberty, subject to any agreement which may have been reached during the consultations provided for in paragraph (3) above, and on informing all the other High Contracting Parties, to depart from His Annual Programmes of construction and declarations of acquisition and to alter the characteristics of any vessels building or which have already appeared in His Programmes or declarations.

(6) In such event, no delay in the acquisition, the laying of the keel, or the altering of any vessel shall be necessary by reason of any of the provisions of Part III of the present Treaty. The particulars mentioned in Article 12 *(b)* shall, however, be communicated to all the other High Contracting Parties before the keels of any vessels are laid. In the case of acquisition, information relating to the vessel shall be given under the provisions of Article 14.

Article 26.

(1) If the requirements of the national security of any High Contracting Party should, in His opinion, be materially affected by any change of circumstances, other than those provided for in Articles 6 (2), 24 and 25 of the present Treaty, such High Contracting Party shall have the right to depart for the current year from His Annual Programmes of construction and declarations of acquisition. The amount of construction by any Party to the Treaty, within the limitations and restrictions thereof, shall not, however, constitute a change of circumstances for the purposes of the present Article. The above mentioned right shall be exercised in accordance with the following provisions :

(2) Such High Contracting Party shall, if He desires to exercise the above mentioned right, notify all the other High Contracting Parties to that effect, stating in what respects He proposes to depart from His Annual Programmes of construction and declarations of acquisition, giving reasons for the proposed departure.

(3) The High Contracting Parties will thereupon consult together with a view to agreement as to whether any departures are necessary in order to meet the situation.

(4) On the expiration of a period of three months from the date of the first of any notifications which may have been given under paragraph (2) above, each of the High Contracting Parties shall, subject to any agreement which may have been reached to the contrary, be entitled to depart from His Annual Programmes of construction and declarations of acquisition, provided notice is promptly given to the other High Contracting Parties stating precisely in what respects He proposes so to depart.

(5) In such event, no delay in the acquisition, the laying of the keel, or the altering of any vessel shall be necessary by reason of any of the provisions of Part III of the present Treaty. The particulars mentioned in Article 12 *(b)* shall, however, be communicated to all the other High Contracting Parties before the keels of any vessels are laid. In the case of acquisition, information relating to the vessels shall be given under the provisions of Article 14.

PART V.

Final Clauses.

Article 27.

The present Treaty shall remain in force until the 31st December, 1942.

Article 28.

(1) His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland will, during the last quarter of 1940, initiate through the diplomatic channel a consultation between the Governments of the Parties to the present Treaty with a view to holding a conference in order to frame a new treaty for the reduction and limitation of naval armament. This conference shall take place in 1941 unless the preliminary consultations should have shown that the holding of such a conference at that time would not be desirable or practicable.

(2) In the course of the consultation referred to in the preceding paragraph, views shall be exchanged in order to determine whether, in the light of the circumstances then prevailing and the experience gained in the interval in the design and construction of capital ships, it may be possible to agree upon a reduction in the standard displacement or calibre of guns of capital ships to be constructed under future annual programmes and thus, if possible, to bring about a reduction in the cost of capital ships.

Article 29.

None of the provisions of the present Treaty shall constitute a precedent for any future treaty.

Article 30.

(1) The present Treaty shall be ratified by the Signatory Powers in accordance with their respective constitutional methods, and the instruments of ratification shall be deposited as soon as possible with His Majesty's Government in the United Kingdom, which will transmit certified copies of all the *procès-verbaux* of the deposits of ratifications to the Governments of the said Powers and of any country on behalf of which accession has been made in accordance with the provisions of Article 31.

(2) The Treaty shall come into force on the 1st January, 1937, provided that by that date the instruments of ratification of all the said Powers shall have been deposited. If all the above-mentioned instruments of ratification have not been deposited by the 1st January, 1937, the Treaty shall come into force so soon thereafter as these are all received.

Article 31.

(1) The present Treaty shall, at any time after this day's date, be open to accession on behalf of any country for which the Treaty for the Limitation and Reduction of Naval Armament was signed in London on the 22nd April, 1930, but for which the present Treaty has not been signed. The instrument of accession shall be deposited with His Majesty's Government in the United Kingdom, which will transmit certified copies of the *procès-verbaux* of the deposit to the Governments of the Signatory Powers and of any country on behalf of which accession has been made.

(2) Accessions, if made prior to the date of the coming into force of the Treaty, shall take effect on that date. If made afterwards, they shall take effect immediately.

(3) If accession should be made after the date of the coming into force of the Treaty, the following information shall be given by the acceding Power so as to reach all the other High Contracting Parties within one month after the date of accession :

(a) The initial Annual Programme of construction and declaration of acquisition, as prescribed by Articles 12 *(a)* and 14 relating to vessels already authorised, but not yet laid down or acquired, belonging to the categories or sub-categories mentioned in Article 12 *(a)*.

(b) A list of the vessels of the above-mentioned categories or sub-categories completed or acquired after the date of the coming into force of the present Treaty, stating particulars of such vessels as specified in Article 12 *(b)*, together with similar particulars relating to any such vessels which have been constructed within the jurisdiction of the acceding Power after the date of the coming into force of the present Treaty, for a Power not a party thereto.

(c) Particulars, as specified in Article 12 *(b)*, of all vessels of the categories or sub-categories above-mentioned which are then under construction for the acceding Power, whether or not such vessels are being constructed within His own jurisdiction, together with similar particulars relating to any such vessels then under construction within His jurisdiction for a Power not a party to the present Treaty.

(d) Lists of all minor war vessels and auxiliary vessels with their characteristics and information concerning them, as prescribed by Article 19.

(4) Each of the High Contracting Parties shall reciprocally furnish to the Government of any country on behalf of which accession is made after the date of the coming into force of the present Treaty, the information specified in paragraph (3) above, so as to reach that Government within the period therein mentioned.

(5) Nothing in Part III of the present Treaty shall prevent an acceding Power from laying down or acquiring, at any time during the four months following the date of accession, any vessel included, or to be included, in His initial Annual Programme of construction or declaration of acquisition, or previously authorised, provided that the information prescribed by Article 12 *(b)* concerning each vessel shall be communicated so as to reach all the other High Contracting Parties within one month after the date of accession.

Article 32.

The present Treaty, of which the French and English texts shall both be equally authentic, shall be deposited in the Archives of His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland which will transmit certified copies thereof to the Governments of the countries for which the Treaty for the Limitation and Reduction of Naval Armament was signed in London on the 22nd April, 1930.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in London the 25th day of March, nineteen hundred and thirty-six.

(L. S.) Norman H. DAVIS.
(L. S.) William H. STANDLEY.
(L. S.) Charles CORBIN.
(L. S.) ROBERT G.
(L. S.) Anthony EDEN.
(L. S.) MONSELL.
(L. S.) STANHOPE.
(L. S.) Vincent MASSEY.
(L. S.) S. M. BRUCE.
(L. S.) C. J. PARR.
(L. S.) R. A. BUTLER.

PROTOCOL OF SIGNATURE.

At the moment of signing the Treaty bearing this day's date, the undersigned, duly authorised to that effect by their respective Governments, have agreed as follows :

1. If, before the coming into force of the above-mentioned Treaty, the naval construction of any Power, or any change of circumstances, should appear likely to render undesirable the coming into force of the Treaty in its present form, the Powers on behalf of which the Treaty has been signed will consult as to whether it is desirable to modify any of its terms to meet the situation thus presented.

2. In the event of the Treaty not coming into force on the 1st January, 1937, the above-mentioned Powers will, as a temporary measure, promptly communicate to one another, after the laying down, acquisition, or completion of any vessels in the categories or sub-categories mentioned in Article 12 *(a)* of the Treaty, the information detailed below concerning all such vessels laid down between the 1st January, 1937, and the date of the coming into force of the Treaty, provided, however, that this obligation shall not continue after 1st July, 1937 :

Name or designation ;
Classification of the vessel ;

Standard displacement in tons and metric tons ;
Principal dimensions at standard displacement, namely length at waterline and extreme beam at or below waterline ;

Mean draught at standard displacement ;
Calibre of the largest gun.

3. The present Protocol, of which the French and English texts shall both be equally authentic, shall come into force on this day's date. It shall be deposited in the archives of His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland which will transmit certified copies thereof to the Governments of the countries for which the Treaty for the Limitation and Reduction of Naval Armament was signed in London on the 22nd April, 1930.

In faith whereof the above-named Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done in London the 25th day of March, nineteen hundred and thirty-six.

(L. S.) Norman H. DAVIS.
(L. S.) William H. STANDLEY.
(L. S.) Charles CORBIN.
(L. S.) ROBERT G.
(L. S.) Anthony EDEN.
(L. S.) MONSELL.
(L. S.) STANHOPE.
(L. S.) Vincent MASSEY.
(L. S.) S. M. BRUCE.
(L. S.) C. J. PARR.
(L. S.) R. A. BUTLER.

ADDITIONAL PROTOCOL.

The undersigned Plenipotentiaries express the hope that the system of Advance Notification and Exchange of Information will be continued by international agreement after the expiration of the Treaty bearing this day's date, and that it may be possible in any future Treaty to achieve some further measure of reduction in naval armament.

Done in London the 25th day of March, nineteen hundred and thirty-six.

Norman H. DAVIS.
William H. STANDLEY.
Charles CORBIN.
ROBERT G.
Anthony EDEN.
MONSELL.
STANHOPE.
Vincent MASSEY.
S. M. BRUCE.
C. J. PARR.
R. A. BUTLER.

Protocol Amending the Second London Naval Treaty, June 30, 1938*

* 53 Stat. 1921.

Protocol between the United States of America, the French Republic, and the United Kingdom of Great Britain and Northern Ireland modifying the treaty of March 25, 1936 for the limitation of naval armament. Signed at London June 30, 1938; effective June 30, 1938.

June 30, 1938
[E. A. S. No. 127]

PROTOCOL.

Capital ships, displacement.
50 Stat. 1371.

WHEREAS by Article 4 (1) of the Treaty for the Limitation of Naval Armaments signed in London on the 25th March, 1936, it is provided that no capital ship shall exceed 35,000 tons (35,560 metric tons) standard displacement;

Gun calibre.
50 Stat. 1371.

And whereas by reason of Article 4 (2) of the said treaty the maximum calibre of gun carried by capital ships is 16 inches (406 mm.);

Notice served of departure from treaty limitations.

And whereas on the 31st March, 1938, the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland gave notice under paragraph (2) of Article 25 of the said Treaty of their decision to exercise the right provided for in paragraph (1) of the said Article to depart from the limitations and restrictions of the treaty in regard to the upper limits of capital ships of sub-category (*a*);

50 Stat. 1287.

Consultations held.

And whereas consultations have taken place as provided in paragraph (3) of Article 25, with a view to reaching agreement in order to reduce to a minimum the extent of the departures from the limitations and restrictions of the treaty;

Agreement.

The undersigned, duly authorised by their respective Governments, have agreed as follows:—

Figures replaced.

1. As from this day's date the figure of 35,000 tons (35,560 metric tons) in Article 4 (1) of the said treaty shall be replaced by the figure of 45,000 tons (45,720 metric tons).
2. The figure of 16 inches (406 mm.) in Article 4 (2) remains unaltered.
3. The present protocol, of which the French and English texts shall both be equally authentic, shall come into force on this day's date.

Signatures.

In faith whereof the undersigned have signed the present protocol.
Done in London the 30th day of June, 1938.

For the Government of the United States of America:
HERSCHEL V. JOHNSON.

For the Government of the French Republic:
ROGER CAMBON.

For the Government of the United Kingdom of Great Britain and Northern Ireland:
ALEXANDER CADOGAN.

Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water, August 5, 1963*

* 14 U.S.T. 1316; T.I.A.S. 5433; 480 U.N.T.S. 43.

TREATY

banning nuclear weapon tests in the atmosphere, in outer space and under water

The Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, hereinafter referred to as the "Original Parties",

Proclaiming as their principal aim the speediest possible achievement of an agreement on general and complete disarmament under strict international control in accordance with the objectives of the United Nations which would put an end to the armaments race and eliminate the incentive to the production and testing of all kinds of weapons, including nuclear weapons,

Seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time, determined to continue negotiations to this end, and desiring to put an end to the contamination of man's environment by radioactive substances,

Have agreed as follows:

Article I

1. Each of the Parties to this Treaty undertakes to prohibit, to prevent, and not to carry out any nuclear weapon test explosion, or any other nuclear explosion, at any place under its jurisdiction or control:

(a) in the atmosphere; beyond its limits, including outer space; or underwater, including territorial waters or high seas; or

(b) in any other environment if such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted. It is understood in this connection that the provisions of this subparagraph are without prejudice to the conclusion of a treaty resulting in the permanent banning of all nuclear test explosions, including all such explosions underground, the conclusion of which, as the Parties have stated in the Preamble to this Treaty, they seek to achieve.

2. Each of the Parties to this Treaty undertakes furthermore to refrain from causing, encouraging, or in any way participating in, the carrying out of any nuclear weapon test explosion, or any other nuclear explosion, anywhere which would take place in any of the environments described, or have the effect referred to, in paragraph 1 of this Article.

Article II

1. Any Party may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to this Treaty. Thereafter, if requested to do so by one-third or more of the Parties, the Depositary Governments shall convene a conference, to which they shall invite all the Parties, to consider such amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to this Treaty, including the votes of all of the Original Parties. The amendment shall enter into force for all Parties upon the

H A. S.

deposit of instruments of ratification by a majority of all the Parties, including the instruments of ratification of all of the Original Parties.

Article III

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Original Parties -- the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics -- which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by all the Original Parties and the deposit of their instruments of ratification.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.[1]

H U. S.

[1] TS 993, 59 Stat. 1052.

Article IV

This Treaty shall be of unlimited duration.

Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty three months in advance.

Article V

This Treaty, of which the English and Russian texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate at the city of Moscow the fifth day of August , one thousand nine hundred and sixty-three.

For the Government of the United States of America	For the Government of the United Kingdom of Great Britain and Northern Ireland	For the Government of the Union of Soviet Socialist Republics
Dean Rusk	Home	A. Gromyko

H H. S.

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, February 11, 1971*

* 23 U.S.T. 703; T.I.A.S. 7337; U.N. Regist. No. 13678.

TREATY ON THE PROHIBITION OF THE EMPLACEMENT OF NUCLEAR WEAPONS AND OTHER WEAPONS OF MASS DESTRUCTION ON THE SEABED AND THE OCEAN FLOOR AND IN THE SUBSOIL THEREOF

The States Parties to this Treaty,

Recognizing the common interest of mankind in the progress of the exploration and use of the seabed and the ocean floor for peaceful purposes,

Considering that the prevention of a nuclear arms race on the seabed and the ocean floor serves the interests of maintaining world peace, reduces international tensions and strengthens friendly relations among States,

Convinced that this Treaty constitutes a step towards the exclusion of the seabed, the ocean floor and the subsoil thereof from the arms race,

Convinced that this Treaty constitutes a step towards a treaty on general and complete disarmament under strict and effective international control, and determined to continue negotiations to this end,

Convinced that this Treaty will further the purposes and principles of the Charter of the United Nations,[1] in a manner consistent with the principles of international law and without infringing the freedoms of the high seas,

Have agreed as follows:

[1] TS 993; 59 Stat. 1031.

ARTICLE I

1. The States Parties to this Treaty undertake not to emplant or emplace on the seabed and the ocean floor and in the subsoil thereof beyond the outer limit of a seabed zone, as defined in article II, any nuclear weapons or any other types of weapons of mass destruction as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons.

2. The undertakings of paragraph 1 of this article shall also apply to the seabed zone referred to in the same paragraph, except that within such seabed zone, they shall not apply either to the coastal State or to the seabed beneath its territorial waters.

3. The States Parties to this Treaty undertake not to assist, encourage or induce any State to carry out activities referred to in paragraph 1 of this article and not to participate in any other way in such actions.

ARTICLE II

For the purpose of this Treaty, the outer limit of the seabed zone referred to in article I shall be coterminous with the twelve-mile outer limit of the zone referred to in part II of the Convention on the Territorial Sea and the Contiguous Zone, signed at Geneva on April 29, 1958,[1] and shall be measured in accordance with the provisions of part I, section II, of that Convention and in accordance with international law.

ARTICLE III

1. In order to promote the objectives of and insure compliance with the provisions of this Treaty, each State Party to the Treaty shall have the right to verify through observation

[1] TIAS 5639; 15 UST 1606.

the activities of other States Parties to the Treaty on the seabed and the ocean floor and in the subsoil thereof beyond the zone referred to in article I, provided that observation does not interfere with such activities.

2. If after such observation reasonable doubts remain concerning the fulfillment of the obligations assumed under the Treaty, the State Party having such doubts and the State Party that is responsible for the activities giving rise to the doubts shall consult with a view to removing the doubts. If the doubts persist, the State Party having such doubts shall notify the other States Parties, and the Parties concerned shall cooperate on such further procedures for verification as may be agreed, including appropriate inspection of objects, structures, installations or other facilities that reasonably may be expected to be of a kind described in article I. The Parties in the region of the activities, including any coastal State, and any other Party so requesting, shall be entitled to participate in such consultation and cooperation. After completion of the further procedures for verification, an appropriate report shall be circulated to other Parties by the Party that initiated such procedures.

3. If the State responsible for the activities giving rise to the reasonable doubts is not identifiable by observation of the object, structure, installation or other facility, the State Party having such doubts shall notify and make appropriate inquiries of States Parties in the region of the activities and of any other State Party. If it is ascertained through these inquiries that a particular State Party is responsible for the activities, that State Party shall consult and cooperate with

other Parties as provided in paragraph 2 of this article. If the identity of the State responsible for the activities cannot be ascertained through these inquiries, then further verification procedures, including inspection, may be undertaken by the inquiring State Party, which shall invite the participation of the Parties in the region of the activities, including any coastal State, and of any other Party desiring to cooperate.

4. If consultation and cooperation pursuant to paragraphs 2 and 3 of this article have not removed the doubts concerning the activities and there remains a serious question concerning fulfillment of the obligations assumed under this Treaty, a State Party may, in accordance with the provisions of the Charter of the United Nations, refer the matter to the Security Council, which may take action in accordance with the Charter.

5. Verification pursuant to this article may be undertaken by any State Party using its own means, or with the full or partial assistance of any other State Party, or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter.

6. Verification activities pursuant to this Treaty shall not interfere with activities of other States Parties and shall be conducted with due regard for rights recognized under international law, including the freedoms of the high seas and the rights of coastal States with respect to the exploration and exploitation of their continental shelves.

ARTICLE IV

Nothing in this Treaty shall be interpreted as supporting or prejudicing the position of any State Party with respect to existing international conventions, including the 1958 Convention on the

Territorial Sea and the Contiguous Zone, or with respect to rights or claims which such State Party may assert, or with respect to recognition or non-recognition of rights or claims asserted by any other State, related to waters off its coasts, including, inter alia, territorial seas and contiguous zones, or to the seabed and the ocean floor, including continental shelves.

ARTICLE V

The Parties to this Treaty undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the seabed, the ocean floor and the subsoil thereof.

ARTICLE VI

Any State Party may propose amendments to this Treaty. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and, thereafter, for each remaining State Party on the date of acceptance by it.

ARTICLE VII

Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held at Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. Such review shall take into account any relevant technological developments. The review conference shall determine, in accordance with the views of a majority of those Parties attending, whether and when an additional review conference shall be convened.

ARTICLE VIII

Each State Party to this Treaty shall in exercising its national sovereignty have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it considers to have jeopardized its supreme interests.

ARTICLE IX

The provisions of this Treaty shall in no way affect the obligations assumed by States Parties to the Treaty under international instruments establishing zones free from nuclear weapons.

ARTICLE X

1. This Treaty shall be open for signature to all States. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositary Governments of this Treaty.

4. For States whose instruments of ratification or accession are deposited after the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform the Governments of all signatory and acceding States of the date of each signature, of the date of deposit of each instrument of ratification or of accession, of the date of the entry into force of this Treaty, and of the receipt of other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the States signatory and acceding thereto.

Declaration of the Indian Ocean as a Zone of Peace, December 16, 1971*

* U.N. Doc. A/RES/2832 (1971), 11 I.L.M. 217 (1972).

U.N. GENERAL ASSEMBLY RESOLUTION ON INDIAN OCEAN AS ZONE OF PEACE*

SUBJECT: Declaration of the Indian Ocean as a zone of peace

DATE AND MEETING: 16 December 1971, 2022nd plenary meeting

VOTE: 61 in favour, none against, with 55 abstentions (recorded vote)

DOCUMENT NUMBERS

REPORT TO ASSEMBLY: First Committee report A/8584

RESOLUTION ADOPTED: 2832 (XXVI)

TEXT OF RESOLUTION

The General Assembly,

Conscious of the determination of the peoples of the littoral and hinterland States of the Indian Ocean to preserve their independence, sovereignty and territorial integrity, and to resolve their political, economic and social problems under conditions of peace and tranquillity,

Recalling the Declaration of the Third Conference of Heads of State or Government of Non-Aligned Countries, held at Lusaka in September 1970, calling upon all States to consider and respect the Indian Ocean as a zone of peace from which great Power rivalries and competition as well as bases conceived in the context of such rivalries and competition should be excluded, and declaring that the area should also be free of nuclear weapons,

Convinced of the desirability of ensuring the maintenance of such conditions in the area by means other than military alliances, as such alliances entail financial and other obligations that call for the diversion of the limited resources of these States from the more compelling and productive task of economic and social reconstruction and could further involve them in the rivalries of power blocs in a manner prejudicial to their independence and freedom of action, thereby increasing international tensions,

Concerned at recent developments that portend the extension of the arms race into the Indian Ocean area, thereby posing a serious threat to the maintenance of such conditions in the area,

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*[Reproduced from U.N. Press Release GA/4548 of December 28, 1971.
[The roll-call vote for Resolution 2832 (XXVI) appears at page 219.]

Convinced that the establishment of a zone of peace in the Indian Ocean would contribute towards arresting such developments, relaxing international tensions and strengthening international peace and security,

Convinced further that the establishment of a zone of peace in an extensive geographical area in one region could have a beneficial influence on the establishment of permanent universal peace based on equal rights and justice for all, in accordance with the purposes and principles of the Charter of the United Nations,

1. Solemnly declares that the Indian Ocean, within limits to be determined, together with the air space above and the ocean floor subjacent thereto, is hereby designated for all time as a zone of peace;

2. Calls upon the great Powers, in conformity with this Declaration, to enter into immediate consultations with the littoral States of the Indian Ocean with a view to:

(a) Halting the further escalation and expansion of their military presence in the Indian Ocean;

(b) Eliminating from the Indian Ocean all bases, military installations, logistical supply facilities, the disposition of nuclear weapons and weapons of mass destruction and any manifestation of great Power military presence in the Indian Ocean conceived in the context of great Power rivalry;

3. Calls upon the littoral and hinterland States of the Indian Ocean, the permanent members of the Security Council and other major maritime users of the Indian Ocean, in pursuit of the objective of establishing a system of universal collective security without military alliances and strengthening international security through regional and other co-operation, to enter into consultations with a view to the implementation of this Declaration and such action as may be necessary to ensure that:

(a) Warships and military aircraft may not use the Indian Ocean for any threat or use of force against the sovereignty, territorial integrity or independence of any littoral or hinterland State of the Indian Ocean in contravention of the purposes and principles of the Charter of the United Nations;

(b) Subject to the foregoing and to the norms and principles of international law, the right to free and unimpeded use of the zone by the vessels of all nations is unaffected;

(c) Appropriate arrangements are made to give effect to any international agreement that may ultimately be reached for the maintenance of the Indian Ocean as a zone of peace;

4. Requests the Secretary-General to report to the General Assembly at its twenty-seventh session on the progress that has been made with regard to the implementation of this Declaration;

5. Decides to include the item entitled "Declaration of the Indian Ocean as a zone of peace" in the provisional agenda of its twenty-seventh session.

RECORDED VOTE: In favour: Afghanistan, Algeria, Bhutan, Burma, Burundi, Cameroon, Ceylon, Chad, China, Colombia, Congo, Costa Rica, Cyprus, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Ghana, Guinea, Guyana, Iceland, India, Indonesia, Iran, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Liberia, Libya, Malaysia, Mali, Malta, Mauritania, Mexico, Morocco, Nepal, *Nicaragua, Nigeria, Pakistan, Panama, Qatar, Romania, Saudi Arabia, Somalia, Sudan, Swaziland, Sweden, Syria, Togo, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Uruguay, Yemen, Yugoslavia, Zambia.

Against: None.

Abstaining: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussia, Canada, Central African Republic, Chile, Cuba, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Fiji, Finland, France, Greece, Guatemala, Haiti, Honduras, Hungary, Ireland, Israel, Italy, Ivory Coast, Jamaica, Lesotho, Luxembourg, Madagascar, Mongolia, Netherlands, New Zealand, Norway, People's Democratic Republic of Yemen, Peru, Philippines, Poland, Portugal, Rwanda, Senegal, Singapore, South Africa, Spain, Thailand, Turkey, Ukraine, USSR, United Kingdom, United States, Upper Volta, Venezuela, Zaire.

Absent: Albania, Bahrain, Barbados, Botswana, Ecuador, Gabon, Gambia, **Iraq, Malawi, Maldives, Mauritius, Niger, Oman, Paraguay, Sierra Leone, United Arab Emirates.

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* Later advised the Secretariat it had intended to abstain.

** Later advised the Secretariat it had intended to vote in favour.

Agreement for the Prevention of Incidents On and Over the High Seas (United States-U.S.S.R.), May 25, 1972*

* 23 U.S.T. 1168; T.I.A.S. 7379.

UNION OF SOVIET SOCIALIST REPUBLICS

Prevention of Incidents On and Over the High Seas

Agreement signed at Moscow May 25, 1972;
Entered into force May 25, 1972.

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS
ON THE PREVENTION OF INCIDENTS ON AND OVER THE HIGH SEAS

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Desiring to assure the safety of navigation of the ships of their respective armed forces on the high seas and flight of their military aircraft over the high seas, and

Guided by the principles and rules of international law,

Have decided to conclude this Agreement and have agreed as follows:

ARTICLE I

For the purposes of this Agreement, the following definitions shall apply:

1. "Ship" means:

(a) A warship belonging to the naval forces of the Parties 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;

(b) Naval auxiliaries of the Parties, which include all naval ships authorized to fly the naval auxiliary flag where such a flag has been established by either Party.

2. "Aircraft" means all military manned heavier-than-air and lighter-than-air craft, excluding space craft.

3. "Formation" means an ordered arrangement of two or more ships proceeding together and normally maneuvered together.

ARTICLE II

The Parties shall take measures to instruct the commanding officers of their respective ships to observe strictly the letter and spirit of the International Regulations for Preventing Collisions at Sea, [1] hereinafter referred to as the Rules of the Road. The Parties recognize that their freedom to conduct operations on the high seas is based on the principles established under recognized international law and codified in the 1958 Geneva Convention on the High Seas.[2]

[1] TIAS 5813; 16 UST 794.
[2] TIAS 5200; 13 UST 2312.

ARTICLE III

1. In all cases ships operating in proximity to each other, except when required to maintain course and speed under the Rules of the Road, shall remain well clear to avoid risk of collision.

2. Ships meeting or operating in the vicinity of a formation of the other Party shall, while conforming to the Rules of the Road, avoid maneuvering in a manner which would hinder the evolutions of the formation.

3. Formations shall not conduct maneuvers through areas of heavy traffic where internationally recognized traffic separation schemes are in effect.

4. Ships engaged in surveillance of other ships shall stay at a distance which avoids the risk of collision and also shall avoid executing maneuvers embarrassing or endangering the ships under surveillance. Except when required to maintain course and speed under the Rules of the Road, a surveillant shall take positive early action so as, in the exercise of good seamanship, not to embarrass or endanger ships under surveillance.

5. When ships of both Parties maneuver in sight of one another, such signals (flag, sound, and light) as are prescribed by the Rules of the Road, the International Code of Signals, or other mutually agreed signals, shall be adhered to for signalling operations and intentions.

6. Ships of the Parties shall not simulate attacks by aiming guns, missile launchers, torpedo tubes, and other weapons in the direction of a passing ship of the other Party, not launch any object in the direction of passing ships of the other Party, and not use searchlights or other powerful illumination devices to illuminate the navigation bridges of passing ships of the other Party.

7. When conducting exercises with submerged submarines, exercising ships shall show the appropriate signals prescribed by the International Code of Signals to warn ships of the presence of submarines in the area.

8. Ships of one Party when approaching ships of the other Party conducting operations as set forth in Rule 4 (c) of the Rules of the Road, and particularly ships engaged in launching or landing aircraft as well as ships engaged in replenishment underway, shall take appropriate measures not to hinder maneuvers of such ships and shall remain well clear.

ARTICLE IV

Commanders of aircraft of the Parties shall use the greatest caution and prudence in approaching aircraft and ships of the other Party operating on and over the high seas, in particular, ships engaged in launching or landing aircraft, and in the interest of mutual safety shall not permit: simulated attacks by the simulated use of weapons against aircraft and ships, or performance of various aerobatics over ships, or dropping various objects near them in such a manner as to be hazardous to ships or to constitute a hazard to navigation.

ARTICLE V

1. Ships of the Parties operating in sight of one another shall raise proper signals concerning their intent to begin launching or landing aircraft.

2. Aircraft of the Parties flying over the high seas in darkness or under instrument conditions shall, whenever feasible, display navigation lights.

ARTICLE VI

Both Parties shall:

1. Provide through the established system of radio broadcasts of information and warning to mariners, not less than 3 to 5 days in advance as a rule, notification of actions on the high seas which represent a danger to navigation or to aircraft in flight.

2. Make increased use of the informative signals contained in the International Code of Signals to signify the intentions of their respective ships when maneuvering in proximity to one another. At night, or in conditions of reduced visibility, or under conditions of lighting and such distances when signal flags are not distinct, flashing light should be used to inform ships of maneuvers which may hinder the movements of others or involve a risk of collision.

3. Utilize on a trial basis signals additional to those in the International Code of Signals, submitting such signals to the Intergovernmental Maritime Consultative Organization for its consideration and for the information of other States.

ARTICLE VII

The Parties shall exchange appropriate information concerning instances of collision, incidents which result in damage, or other incidents at sea between ships and aircraft of the Parties. The United States Navy shall provide such information through the Soviet Naval Attache in Washington and the Soviet Navy shall provide such information through the United States Naval Attache in Moscow.

ARTICLE VIII

This Agreement shall enter into force on the date of its signature and shall remain in force for a period of three years. It will thereafter be renewed without further action by the Parties for successive periods of three years each.

This Agreement may be terminated by either Party upon six months written notice to the other Party.

ARTICLE IX

The Parties shall meet within one year after the date of the signing of this Agreement to review the implementation of its terms. Similar consultations shall be held thereafter annually, or more frequently as the Parties may decide.

ARTICLE X

The Parties shall designate members to form a Committee which will consider specific measures in conformity with this Agreement. The Committee will, as a particular part of its

work, consider the practical workability of concrete fixed distances to be observed in encounters between ships, aircraft, and ships and aircraft. The Committee will meet within six months of the date of signature of this Agreement and submit its recommendations for decision by the Parties during the consultations prescribed in Article IX.

DONE in duplicate on the 25th day of May, 1972 in Moscow in the English and Russian languages each being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

John W. Warner[1]

Secretary of the Navy

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS:

S. Gorshkov[2]

Commander-in-Chief of the Navy

[1] John W. Warner
[2] Sergei G. Gorshkov

Protocol to the Agreement for the Prevention of Incidents at Sea (United States-U.S.S.R.), May 22, 1973*

* 24 U.S.T. 1063; T.I.A.S. 7624.

UNION OF SOVIET SOCIALIST REPUBLICS

Prevention of Incidents On and Over the High Seas

Protocol to the agreement of May 25, 1972.
Signed at Washington May 22, 1973;
Entered into force May 22, 1973.

PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE PREVENTION OF INCIDENTS ON AND OVER THE HIGH SEAS SIGNED MAY 25, 1972

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics, herein referred to as the Parties;

Having agreed on measures directed to improve the safety of navigation of the ships of their respective armed forces on the high seas and flight of their military aircraft over the high seas,

Recognizing that the objectives of the Agreement may be furthered by additional understandings, in particular concerning actions of naval ships and military aircraft with respect to the non-military ships of each Party,

Further agree as follows:

ARTICLE I

The Parties shall take measures to notify the non-military ships of each Party on the provisions of the Agreement directed at securing mutual safety.

ARTICLE II

Ships and aircraft of the Parties shall not make simulated attacks by aiming guns, missile launchers, torpedo tubes and other weapons at non-military ships of the other Party, nor launch nor drop any objects near non-military ships of the other Party in such a manner as to be hazardous to these ships or to constitute a hazard to navigation.

ARTICLE III

This Protocol will enter into force on the day of its signing and will be considered as an integral part of the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on the Prevention of Incidents On and Over the High Seas which was signed in Moscow on May 25, 1972. [1]

DONE on the 22nd day of May, 1973 in Washington, in two copies, each in the English and the Russian language, both texts having the same force.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

J. P. Weinel
Vice Admiral, U.S. Navy

FOR THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

V. Alekseyev
Admiral

[1] TIAS 7379; 23 UST 1168.