



**REPORT OF THE COMMITTEE
ON THE
PEACEFUL USES OF THE SEA-BED
AND THE OCEAN FLOOR
BEYOND THE LIMITS
OF NATIONAL JURISDICTION**

Volume V

GENERAL ASSEMBLY

OFFICIAL RECORDS: TWENTY-EIGHTH SESSION

SUPPLEMENT No. 21 (A/9021)

UNITED NATIONS

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New York, 1973

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Volume I of this report contains the report of the Committee and annex I and appendices I and II; annex II, appendices I-IV; and annexes III-V. Volume II contains annex I, appendices III and IV, and annex VI; volume III contains annex II, appendix V; volume IV contains annex II, appendix VI; and volume VI contains annex II, appendix VIII.

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Introductory Note

1. This paper is submitted to the Working Group of Sub-Committee II pursuant to a request formulated by the Working Group at its twelfth meeting on 3 July 1973.
2. The paper sets forth, under the headings and subheadings of the agreed list of subjects and issues relating to the law of the sea, 3/ a comparative table of proposals submitted to the Committee in so far as they relate to the subjects and issues allocated to Sub-Committee II. 4/
3. Where a proposed text relates to more than one heading or subheading of the agreed list, it is classified under each relevant heading or sub-heading. In such cases, the table gives the pertinent cross-reference.
4. The table is preceded by a list of proposals, cited in the order in which they were submitted.
5. In certain articles, passages especially relevant to the subitem under which the article is classified have been underlined.

1/ It may be noted that in various cases the sponsoring delegation or delegations stated that the documents in question were introduced for discussion purposes and did not constitute formal or definitive proposals.

2/ Originally issued as document SC.II/WG/Paper No. 4.

3/ See Report of the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction, Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721), para. 23, pp. 5-8.

4/ See A/AC.138/L.13/Rev.1, para. 17, pp. 6-8.

LIST OF PROPOSALS, DECLARATIONS, WORKING PAPERS, ETC.

(listed in order of submission)

<u>Abbreviated Title</u> ^{1/}	<u>Full Title</u>	<u>Symbol</u>
(1) USA: International Sea-Bed Area	United States of America: Draft United Nations Convention on the International Sea-Bed Area	A/AC.138/25 of 3 August 1970; A/8021, pp.130-176
(2) TANZANIA: International Sea-bed Authority	United Republic of Tanzania: Draft Statute for an international sea-bed authority	A/AC.138/33 of 24 March 1971; A/8421, pp.51-64
(3) USSR: Sea-bed	Union of Soviet Socialist Republics: provisional draft articles of a treaty on the use of the sea-bed for peaceful purposes	A/AC.138/43 of 22 July 1971; A/8421, pp.67-75
(4) USA: Territorial sea, straits, fisheries	United States of America: Draft Articles on the Breadth of the Territorial Sea, Straits and Fisheries	A/AC.138/SC.II/L.4 of 30 July 1971 A/8421, pp.241-245
(5) MALTA: Ocean Space Treaty see also (37)	Malta: Draft ocean space treaty	A/AC.138/53 of 16 August 1971; A/8421, pp.105-193
(6) AFGHANISTAN, AUSTRIA, BELGIUM, HUNGARY, NEPAL, NETHERLANDS, SINGAPORE: WP	Afghanistan, Austria, Belgium, Hungary, Nepal, Netherlands and Singapore: Preliminary Working Paper	A/AC.138/55 of 19 August 1971; A/8421, pp.194-196
(7) USSR: Fisheries	Draft article on fishing (basic provisions and explanatory note) submitted by the Union of Soviet Socialist Republics	A/AC.138/SC.II/L.6 of 18 July 1972; A/8721, pp.158-159
(8) YAOUNDE: Conclusions	Conclusions in the General Report of the African States Regional Seminar on the Law of the Sea, held in Yaounde from 20-30 June, 1972	A/AC.138/79 of 21 July 1972; A/8721, pp.73-76
(9) USSR: Straits	Draft article on straits used for international navigation submitted by the Union of Soviet Socialist Republics	A/AC.138/SC.II/L.7 of 25 July 1972; A/8721 pp.162-163

^{1/} The abbreviated title is used in the classification

<u>Abbreviated Title</u>	<u>Full Title</u>	<u>Symbol</u>
(10) SANTO DOMINGO: Declaration	Declaration of Santo Domingo approved by the meeting of Ministers of the Specialized Conference of the Caribbean Countries on the Problems of the Sea held on 7 June 1972	A/AC.138/80 of 26 July 1972; A/8721, pp.70-73
(11) CANADA: Living resources	Working paper on Management of the Living Resources of the Sea submitted by Canada	A/AC.138/SC.II/L.8 of 27 July 1972; A/8721, pp.164-174
(12) USA: Fisheries	United States of America: revised draft, fisheries article	A/AC.138/SC.II/L.9 of 4 August 1972; A/8721, pp.175-179
(13) KENYA: Economic zone replaced by (49)	Draft articles on exclusive economic zone concept	A/AC.138/SC.II/L.10 of 7 August 1972; A/8721, pp.180-182
(14) AUSTRALIA and NEW ZEALAND: Fisheries	Working paper submitted by Australia and New Zealand	A/AC.138/SC.II/L.11 of 11 August 1972 A/8721, pp.183-187
(15) JAPAN: Fisheries	Proposals for a regime of fisheries on the high seas submitted by Japan	A/AC.138/SC.II/L.12 of 14 August 1972 A/8721, pp.188-196
(16) MOSCOW Declaration	Declaration on Rational Exploitation of the Living Resources of the Seas and Oceans in the Common Interests of All Peoples of the World, adopted at the Conference of Ministers held at Moscow on 6-7 July 1972	A/AC.138/85 of 17 August 1972 and A/8721, pp.78-80
(17) USSR: Territorial sea (Add.)	Union of Soviet Socialist Republics: Draft article on the breadth of the territorial sea. Addendum	A/AC.138/SC.II/L.7/ Add.1 of 13 March 1973
(18) FIJI, INDONESIA, MAURITIUS and PHILLIPPINES: Archipelagic principles	Archipelagic principles as proposed by the Delegations of Fiji, Indonesia, Mauritius and Philippines	A/AC.138/SC.II/L.15 of 14 March 1973

<u>Abbreviated Title</u>	<u>Full Title</u>	<u>Symbol</u>
(19) NETHERLANDS: intermediate zone	Netherlands: Working Paper concerning the concept of an intermediate zone	A/AC.138/86 of 16 March 1973 (superseded by doc. A/AC.138/SC.II/L.59 of 19 August 1973)
(20) TURKEY: territorial sea Replaced by (32)	Turkey: draft article under 2.3.2, Breadth of the Territorial Sea. Global or regional criteria. Open seas and oceans. Semi-enclosed seas and enclosed seas.	A/AC.138/SC.II/L.16 of 22 March 1973
(21) GREECE: Median line <u>1/</u>	Greece: amendment to the draft article contained in document A/AC.138/SC.II/L.16 <u>[(20)]</u> , subsequently replaced by (32)	A/AC.138/SC.II/L.17 of 27 March 1973
(22) CYPRUS, GREECE, INDONESIA, MALAYSIA, MOROCCO, PHILIPPINES, SPAIN and YEMEN: territorial sea, straits (navigation)	Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen: draft articles on navigation through the territorial sea including straits used for international navigation	A/AC.138/SC.II/L.18 of 27 March 1973
(23) CYPRUS: territorial sea	Cyprus: draft article under item 2.3.2 (breadth of the territorial sea)	A/AC.138/SC.II/L.19 of 28 March 1973
(24) USA: Management of fishes <u>2/</u>	United States of America: Special considerations regarding the management of anadromous fishes and highly migratory oceanic fishes	A/AC.138/SC.II/L.20 of 2 April 1973
25) COLOMBIA, MEXICO, VENEZUELA: draft articles	Colombia, Mexico and Venezuela: draft articles of treaty	A/AC.138/SC.II/L.21
(26) TURKEY: draft article replaced by (33)	Turkey: draft article related to the following items: 2.3.1 Question of the delimitation of the territorial sea; various aspects involved 5.3 Question of the delimitation between States; various aspects involved 6.7.2 Delineation between adjacent and opposite States	A/AC.138/SC.II/L.22

1/ At the 64th meeting (16 July 1973) of Sub-Committee II, the representative of Greece stated that this amendment also applied to (32).

2/ Text not classified.

<u>Abbreviated Title</u>	<u>Full title</u>	<u>Symbol</u>
(27) ICELAND: Area adjacent to territorial sea	Jurisdiction of coastal States over natural resources of the area adjacent to their territorial sea. Working paper submitted by Iceland	A/AC.138/SC.II/L.23 of 5 April 1973
(28) OAU Declaration	Organization of African Unity Declaration on the issues of the Law of the Sea - CM/Res.289 (XIX)	A/AC.138/89 of 2 July 1973 and Rev.1 (F only)
(29) URUGUAY: territorial sea	Uruguay: draft treaty articles on the territorial sea	A/AC.138/SC.II/L.24 of 3 July 1973 and Corr.1 (S only) and Corr.2 (F only)
(30) BELGIUM: artificial islands and installations	Artificial islands and installations: Working paper submitted by Belgium	A/AC.138/91 of 11 July 1973
(31) BOLIVIA: land-locked countries	Bolivia: draft articles relating to land-locked countries	A/AC.138/92 of 12 July 1973
(32) TURKEY	Turkey: draft article related to the following items: 2.3.1 Question of the delimitation of the territorial sea; various aspects involved 5.3 Question of the delimitation between States; various aspects involved 6.7.2 Delineation between adjacent and opposite States	A/AC.138/SC.II/L.16/Rev.1 of 12 July 1973
(33) TURKEY: draft article, Rev.1	Turkey:	A/AC.138/SC.II/L.22/Rev.1 of 13 July 1973
(34) BRAZIL: draft articles	Brazil: draft articles containing basic provisions on the question of the maximum breadth of the territorial sea and other modalities or combinations of legal régimes of coastal State sovereignty, jurisdiction or specialized competences	A/AC.138/SC.II/L.25 of 13 July 1973
(35) USSR: continental shelf	Union of Soviet Socialist Republics: Rough draft of basic provisions on the question of the outer limit of the continental shelf	A/AC.138/SC.II/L.26 of 13 July 1973

<u>Abbreviated Title</u>	<u>Full Title</u>	<u>Symbol</u>
(36) ECUADOR, PANAMA and PERU: draft articles	Draft articles for inclusion in a convention on the law of the sea. Working paper submitted by the delegations of Ecuador, Panama and Peru	A/AC.138/SC.II/L.27 of 13 July 1973 and Corr.1 and Corr.2 (E only)
(37) MALTA: coastal state jurisdiction	Malta: preliminary draft articles on the delimitation of coastal State jurisdiction in ocean space and on the rights and obligations of coastal States in the area under their jurisdiction	A/AC.138/SC.II/L.28 of 13 July 1973
(38) GREECE: islands	Greece: draft article under item 19, regime of islands	A/AC.138/SC.II/L.29 of 16 July 1973 and Corr.1 (E F C only) and Corr.2 (F only)
(39) ITALY: straits	Italy: draft article on straits	A/AC.138/SC.II/L.30 of 16 July 1973
(40) TUNISIA and TURKEY: amendment to (23)	Tunisia and Turkey: amendment to the draft article contained in document A/AC.138/SC.II/L.19	A/AC.138/SC.II/L.31 of 16 July 1973
(41) TUNISIA and TURKEY: amendment to (21)	Tunisia and Turkey: sub-amendment to the amendment (A/AC.138/SC.II/L.17) to the draft article contained in document A/AC.138/SC.II/L.16	A/AC.138/SC.II/L.32 of 16 July 1973
(42) TUNISIA and TURKEY: amendment to (25)	Tunisia and Turkey: amendment to the draft articles contained in document A/AC.138/SC.II/L.21	A/AC.138/SC.II/L.33 of 16 July 1973
(43) CHINA: working paper	Working paper on sea area within the limits of national jurisdiction submitted by the Chinese delegation	A/AC.138/SC.II/L.34 of 16 July 1973
(44) USA: coastal sea-bed economic area	United States of America: draft articles for a chapter on the rights and duties of States in the coastal sea-bed economic area	A/AC.138/SC.II/L.35 of 16 July 1973 and Corr.1

<u>Abbreviated Title</u>	<u>Full Title</u>	<u>Symbol</u>
(45) AUSTRALIA and NORWAY: Economic zone and delimitation	Working paper submitted by the Delegations of Australia and Norway containing Certain Basic Principles on an Economic Zone and on Delimitation	A/AC.138/SC.II/L.36 of 16 July 1973 and Corr.1
(46) ARGENTINA: draft articles	Argentina: draft articles	A/AC.138/SC.II/L.37 of 16 July 1973
(47) CANADA, INDIA, KENYA, MADAGASCAR, SENEGAL and SRI LANKA: fisheries	Draft articles on fisheries submitted by Canada, India, Kenya, Madagascar, Senegal and Sri Lanka	A/AC.138/SC.II/L.38 of 16 July 1973 and Corr.1 (E and R)
(48) AFGHANISTAN, AUSTRIA, BELGIUM, BOLIVIA, NEPAL and SINGAPORE: resource jurisdiction	Draft articles on resource jurisdiction of coastal States beyond the territorial sea	A/AC.138/SC.II/L.39 16 July 1973
(49) FOURTEEN POWER: draft articles on exclusive economic zone	Draft articles on exclusive economic zone proposed by Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia, Madagascar, Mauritius, Senegal, Sierra Leone, Somalia, Sudan, Tunisia and United Republic of Tanzania	A/AC.138/SC.II/L.40 of 16 July 1973 and Corr.1 and Corr.2 (E only) Corr.3
(50) UGANDA and ZAMBIA: economic zone	Proposal by Uganda and Zambia: draft articles on the proposed economic zone	A/AC.138/SC.II/L.41 of 16 July 1973
(51) FIJI: passage through territorial sea	Fiji: draft articles relating to passage through the territorial sea	A/AC.138/SC.II/L.42 of 19 July 1973, and Corr.1
(52) CAMEROON, KENYA, MADAGASCAR, TUNISIA, and TURKEY: Islands	Cameroon, Kenya, Madagascar, Tunisia and Turkey: draft article under article 19, régime of islands	A/AC.138/SC.II/L.43 of 19 July 1973
(53) AFGHANISTAN, BOLIVIA, CZECHOSLOVAKIA, HUNGARY, MALI, NEPAL and ZAMBIA: land-locked States	Draft articles relating to land-locked States submitted by Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia	A/AC.138/93 of 2 August 1973
(54) UNITED KINGDOM: Archipelagic States	United Kingdom of Great Britain and Northern Ireland: draft article on the rights and duties of archipelagic States	A/AC.138/SC.II/L.44 of 2 August 1973

<u>Abbreviated Title</u>	<u>Full Title</u>	<u>Symbol</u>
(55) CHINA: international sea area	Working paper on general principles for the international sea area: submitted by the Chinese delegation	A/AC.138/SC.II/L.45 of 6 August 1973 and Corr.1 (C only) (supersedes doc. A/AC.138/SC.I/L.25 and Corr.1 (C only))
(56) PHILIPPINES: historic waters	Philippines: draft article under item 2.2 on historic waters	A/AC.138/SC.II/L.46 of 6 August 1973
(57) PHILIPPINES: breadth of territorial sea	Philippines: draft article under 2.3.2 on breadth of territorial sea	A/AC.138/SC.II/L.47/Rev.1 of 10 August 1973
(58) FIJI, INDONESIA, MAURITIUS and the PHILIPPINES: archipelagos	Draft articles on archipelagos submitted by Fiji, Indonesia, Mauritius and the Philippines	A/AC.138/SC.II/L.48 of 6 August 1973
(59) POLAND: straits	Poland: proposal concerning aspects of navigation through straits	A/AC.138/SC.II/L.49 of 8 August 1973
(60) BULGARIA: territorial sea and its breadth	Draft articles on the nature and characteristics of the territorial sea and its breadth submitted by the delegation of Bulgaria	A/AC.138/SC.II/L.51 of 9 August 1973
(61) PAKISTAN: territorial sea and economic zone	Proposal by Pakistan: breadth of territorial sea and boundaries of exclusive economic zone	A/AC.138/SC.II/L.52 of 9 August 1973
(62) ROMANIA: régime of islands	Romania: working paper on certain specific aspects of the régime of islands in the context of delimitation of the marine spaces between neighbouring States	A/AC.138/SC.II/L.53 of 10 August 1973
(63) ECUADOR, PANAMA and PERU: fisheries	Draft articles on fisheries in national and international zones in ocean space submitted by the delegations of Ecuador, Panama and Peru	A/AC.138/SC.II/L.54 of 10 August 1973
(64) JAMAICA: regional facilities	Jamaica: draft articles on regional facilities for developing geographically disadvantaged coastal States	A/AC.138/SC.II/L.55 of 13 August 1973

<u>Abbreviated Title</u>	<u>Full Title</u>	<u>Symbol</u>
(65) JAPAN: delimitation of coastal sea-bed area	Principles on the delimitation of coastal sea-bed area submitted by Japan	A/AC.138/SC.II/L.56 of 15 August 1973
(66) U.S.A.: settlement of disputes	United States of America: draft articles for a chapter on the settlement of disputes	A/AC.138/97 of 21 August 1973
(67) NETHERLANDS: intermediate zone	Netherlands: proposal concerning an intermediate zone	A/AC.138/SC.II/L.59 of 21 August 1973 and Corr.1 (E only) Corr.2 (S only)
(68) ZAIRE: fishing	Draft articles on fishing submitted by the delegation of Zaire	A/AC.138/SC.II/L.60 of 17 August 1973
(69) IRAN: regional arrangements	Draft article submitted by Iran. 15. Regional arrangements	A/AC.138/SC.II/L.62 of 16 August 1973
(70) YUGOSLAVIA: regional arrangements	Draft article submitted by Yugoslavia. 15. Regional arrangements	A/AC.138/SC.II/L.63 of 16 August 1973

1. INTERNATIONAL REGIME FOR THE SEA-BED AND THE OCEAN FLOOR BEYOND NATIONAL JURISDICTION

1.5 Definition and limits of the area 1/

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(3) USSR: Sea-bed	Articles 1, 2 and 3: "Article 1 - The sea-bed and subsoil thereof within the <u>limits</u> specified in articles 2 and 3 of this Treaty shall be open to use exclusively for peaceful purposes by all States, whether coastal or landlocked, without any discrimination whatsoever." "Article 2 - The provisions of this Treaty shall apply to the sea-bed of the high seas and the subsoil thereof beyond the limits of the continental shelf. In areas where there is no continental shelf, the provisions of this Treaty shall apply to the sea-bed of the high seas, beginning at the demarcation line provided for in article 3 of this Treaty." "Article 3 - (Question of the limits of the sea-bed) Part I, A and C: "I. <u>Limits and status of the international area:</u> A. The international area shall comprise all sea-bed subsoil outside the area of the territorial sea (the maximum breadth of which is 12 miles measured from the base-line) and beyond the submarine areas adjacent to the coasts of States. For the purpose	
(6) Afghanistan, Austria, Belgium, Hungary, Nepal, Netherlands and Singapore		

1/ See procedural agreement as set out in para. 22 of the Committee's report (Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421)).

Cross reference

Provisions

(6) Abbreviated title
Afghanistan,
Austria, Belgium,
Hungary, Nepal,
Netherlands and
Singapore
(continued)

of this article submarine areas are considered to be adjacent to the coast of a particular State if

- either their depth does not exceed 200 metres
- or they underlie a belt of sea the breadth of which is 40 miles measured from the base-line of the territorial sea, according to the choice between the two methods of delimitation to be made by that particular State at the moment of ratification. The choice shall be final and the method of delimitation chosen shall apply to the whole of the coastline of that particular State.

C. Within the international area a belt of sea-bed and subsoil contiguous to the adjacent submarine area as determined in accordance with paragraph A above, and having a breadth of 40 miles measured from the outer limit of such adjacent submarine area, shall constitute the 'coastal State priority zone'. In this zone the International Authority cannot either explore and exploit directly (see point III below) or license exploration and exploitation by a State, without consent of the coastal State."

2. TERRITORIAL SEA

2.1 Nature and characteristics, including the question of the unity or plurality of régimes in the territorial sea

<u>Abbreviated Title</u>	<u>Provisions</u>	<u>Cross reference</u>
(10) Santo Domingo Declaration	<p>Territorial sea, para.1:</p> <p>"The sovereignty of a State extends, beyond its land territory and its internal waters, to an area of the sea adjacent to its coast, designated as the territorial sea, including the superjacent air space as well as the subjacent sea-bed and subsoil."</p>	
(18) Fiji, Indonesia, Mauritius and the Philippines; Archipelagic Principles	<p>Principles 1 and 2 (territorial sea of archipelagic State):</p> <p>"1. An archipelagic State, whose component islands and other natural features form an intrinsic geographical, economic and political entity, and historically have or may have been regarded as such, may draw straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago from which the extent of the territorial sea of the archipelagic State is or may be determined."</p> <p>"2. The waters within the baselines, regardless of their depth or distance from the coast, the sea-bed and the subsoil thereof, and the superjacent airspace, as well as all their resources, belong to, and are subject to the sovereignty of the archipelagic State."</p>	16; 2.3.1
(25) Colombia, Mexico, Venezuela: draft articles	<p>Territorial sea, art. 1, 1-3:</p> <p>"Article 1. 1. The coastal State has sovereignty over an area of the sea immediately contiguous to its territory and inland waters designated as the territorial sea.</p> <p>"2. The sovereignty of a coastal State extends to the sea-bed and subsoil and the superjacent air space of the territorial sea."</p> <p>"3. The sovereignty of the coastal State is exercised in accordance with the provisions of these articles and other rules of international law."</p>	

Cross reference

Provisions

Abbreviated title

TERRITORIAL SEA

SECTION I. GENERAL

Article 1

1. A coastal State exercises sovereignty over a belt of sea adjacent to its coast and to its internal waters, described as the territorial sea.
2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

Section IV - Natural resources régime

Article 6

Ecuador, Panama,
Peru: draft
articles

The renewable and non-renewable resources of the sea, and of its bed and subsoil, within the limits referred to in article 1 shall be subject to the sovereignty and jurisdiction of the coastal State.

Article 7

The prospecting and exploration of the adjacent sea, as well as the exploitation of its non-renewable resources, shall be subject to the regulations of the coastal State, which may reserve the aforesaid activities for itself or its nationals, or permit them to be carried out by third parties in accordance with the provisions of its internal legislation and of any relevant international agreements it may conclude.

Malta: coastal
State jurisdiction

Article 2:

- "1. The jurisdiction of a State extends to a belt of ocean space adjacent to its coast, described as national ocean space.
2. This jurisdiction is exercised subject to the provisions of these articles and to other rules of international law."

3.2; 6.5

(29) Uruguay: territorial
sea

(36)

(37)

Abbreviated titleProvisionsCross reference

(39) Greece: islands

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

19 (b)

2. An island forms an integral part of the territory of the State to which it belongs. The territorial sovereignty over the island extends to its territorial waters, to the air space over the island and its territorial sea and to its bed and subsoil and to its continental shelf for the purpose of exploring it and exploiting its natural resources."

(43) China: working paper

Territorial Sea, paras. 1 and 7:

"(1) The territorial sea, as delimited by a coastal State by virtue of its sovereignty, is a specified area of sea adjacent to its coast or internal waters, including the airspace over the territorial sea and its bed and subsoil thereof, over which it exercises sovereignty.

(7) A strait lying within the territorial sea, whether or not it is frequently used for international navigation, forms an inseparable part of the territorial sea of the coastal State."

(46) Argentina: draft articles

"1. The sovereignty of a coastal State extends to a belt of sea adjacent to its coast, described as the territorial sea, and to the air space, bed and subsoil of that sea."

(50) Uganda and Zambia: economic zone

Section I: Territorial Sea

Article 1:

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

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

Article 2:

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

Provisions

Abbreviated title

(60) Bulgaria:
Territorial Sea
and its breadth

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

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

3. The coastal State exercises this sovereignty subject to the provisions of these articles and to other rules of international law.

(63) Ecuador, Panama
and Peru:
fisheries

"I. Fisheries in zones of national sovereignty and jurisdiction

6.6; 7.3

Article A

It shall be the responsibility of the coastal State to prescribe legal provisions relating to the management and exploitation of living resources in the maritime zone under its sovereignty and jurisdiction, primarily for the purposes of ensuring the conservation and rational utilization of such resources, the development of its fishing and related industries and the improvement of the nutritional levels of peoples.

Article B

The coastal State may reserve the exploitation of living resources in the maritime zone under its sovereignty and jurisdiction to itself or its nationals, having regard to the need to promote the efficient utilization of such resources, economic stability and maximum social benefits.

Article C

Where the coastal State permits nationals of other States to exploit living resources in the maritime zone under its sovereignty and jurisdiction, it shall establish conditions for such exploitation, including, inter alia:

Cross reference

Abbreviated title

Provisions

(63) Ecuador, Panama
and Peru:
fisheries
(continued)

- (a) obtaining fishing and marine hunting licences and permits through payment of the corresponding fees;
- (b) specifying the species that may be caught;
- (c) fixing the age and size of the fish or other resources that may be caught;
- (d) establishing prohibited areas for fishing and hunting;
- (e) fixing the periods during which the indicated species may be caught;
- (f) fixing the maximum size of catches;
- (g) limiting the number and tonnage of the vessels and the gear that may be used;
- (h) specifying the gear permitted to be used;
- (i) procedures and penalties applicable in cases of violation.

Article D

1. In adopting measures to conserve living resources in the maritime zone subject to its sovereignty and jurisdiction, the coastal State shall endeavour to maintain the productivity of species and avoid harmful effects for the survival of living resources outside the said zone.
2. The coastal State shall, for the foregoing purposes, promote any necessary co-operation with other States and with competent international organizations.

6.6.3

Abbreviated title

- (63) Ecuador, Panama
and Peru:
fisheries
(continued)

Provisions

Article E

The coastal State may, within the limits of the maritime zone under its sovereignty and jurisdiction, board and inspect foreign-flag fishing or hunting vessels; if it finds evidence or indications of a breach of the legal provisions of the coastal State, it shall proceed to apprehend the vessel in question and take it to port for the corresponding proceedings.

Article F

Any dispute concerning fishing or hunting activities by foreign-flag vessels within the zone under the sovereignty and jurisdiction of the coastal State shall be settled by the competent authorities of the coastal State."

2.2 Historic waters

Cross reference

Abbreviated title

Provisions

(8) Yaoundé:
conclusions

Part I, (b) on "Historic Rights" and "Historic Bays":

"(1) That the 'historic rights' acquired by certain neighbouring African States in a part of the sea which may fall within the exclusive jurisdiction of another State should be recognized and safeguarded."

"(2) The impossibility for an African State to provide evidence of an uninterrupted claim over a historic bay should not constitute an obstacle to the recognition of the rights of that State over such a bay."

(56) Philippines:
historic waters

Article

Historic rights or title acquired by a State in a part of the sea adjacent to its coasts shall be recognized and safeguarded.

(57) Philippines:
breadth of
territorial sea

Article (1) - Text reproduced in 2.3.2 under (57).

2.3.2

2.3 Limits

2.3.1 Questions of the delimitation of the territorial sea; various aspects involved page 8

Provisions Cross reference

(18) Abbreviated title: Fiji, Indonesia, Mauritius and the Philippines: Archipelagic Principles
Principles 1 and 2 (territorial sea of archipelagic state):
text reproduced under 2.1
2.1; 16

(23) Cyprus: Territorial sea
Draft article:
"Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line, every point of which is equidistant from the nearest points on the baselines, continental or insular, from which the breadth of the territorial seas of each of the two States is measured."
2.3.2

(29) Uruguay: territorial sea
Articles 3-5 and 7-14
Article 3

"1. Where the coasts of two States are opposite or adjacent to each other, neither of them is entitled, failing agreement between them, to extend its territorial sea beyond a median line determined exclusively for that purpose, every point of which is equidistant from the nearest points on the continental or insular baselines from which the breadth of the territorial sea of each of the two States is measured.

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

Article 4
"Identical with article 3 of the Geneva Convention (baseline).

[Article 3

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

Abbreviated title

(29) Uruguay:
territorial sea

Provisions

Article 5

"Identical with article 4 of the Geneva Convention (baseline).

[Article 4

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

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

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

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

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

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

Article 7

"Identical with article 6 of the Geneva Convention (outer limit).

[Article 6

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

Cross reference

Abbreviated title

(29) Uruguay:
territorial sea

Provisions

Article 8

"Identical with article 7 of the Geneva Convention (bays) (under study)."

[Article 7

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

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

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

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

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

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

Abbreviated title

(29) Uruguay:
territorial sea

Provisions

Article 9

"Identical with article 8 of the Geneva Convention (permanent harbour works)."

[Article 8

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

Article 10

"Identical with article 9 of the Geneva Convention (roadsteads)."

[Article 9

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

Article 11

"Identical with article 10 of the Geneva Convention (islands). 19 (b)

[Article 10

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
2. The territorial sea of an island is measured in accordance with the provisions of these articles.]"

Abbreviated title

(29) Uruguay:
territorial sea

Provisions

Article 12

16

1. The territorial sea of an archipelagic State whose constituent islands and other natural characteristics form an intrinsic geographical, economic and political entity that has been or may have been historically regarded as such may be measured from the straight baselines joining the furthest points of the islands and the outermost low-tide reefs of the archipelago.

2. Waters enclosed by the baselines drawn in accordance with paragraph 1, irrespective of their depth or distance from the coast, shall be regarded as internal waters without prejudice to the innocent passage of ships flying any flag.

Article 13

"Identical with article 11 of the Geneva Convention.

[Article 11

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

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

Article 14

"Identical with article 13 of the Geneva Convention.

[Article 13

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

Abbreviated title

Provisions

(33) Turkey: draft
article, Rev.1

Paras. 1-4:

"1. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the respective maritime boundaries shall be determined by agreement among them in accordance with equitable principles, taking into account all the relevant circumstances.

2. In the course of the negotiations which will be held with a view to arriving at an agreement, the States shall take into account, inter alia, special circumstances such as the general configuration of the respective coasts, the existence of islands or islets of another State and the physical and geological structure of the marine area involved, including the sea-bed and subsoil thereof.

3. The States shall make use of the methods envisaged in Article 33 of the United Nations Charter or other peaceful means and methods open to them, in order to resolve differences which may arise in the course of negotiations.

4. In the absence of special circumstances, use regard should be given to the principles of median line or equidistance in delimitation of respective boundaries."

(43) China:
Working paper

Territorial sea, para. 4:

" (4) Coastal States adjacent or opposite to each other shall define the boundaries between their territorial seas on the principle of mutual respect for sovereignty and territorial integrity, equality and reciprocity."

2.3.1, 5.3,
6.7.2 and 21

Provisions

Abbreviated title

- | | | | |
|------|--|---|--------------|
| (50) | Uganda and Zambia:
economic zone | Article 3, para. 2:

"2. Where the coasts of two States are opposite or adjacent to each other and the distance between them is less than double the uniform breadth provided in this article, the limits of the territorial sea shall, failing agreement between them to the contrary, be the median line every point of which is equidistant from the nearest points or baselines from which the breadth of the territorial sea of each of the two States is measured. The provision of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision." | |
| (54) | U.K.: Archipelagic States | Para. 4 - Text reproduced in 16 under (54) | 5.2; 6.5; 16 |
| (58) | Fiji, Indonesia, Mauritius and the Philippines: archipelagos | Article II - Text reproduced in 16 under (58) | 16 |
| (62) | Romania: régime of islands | Para. 2 - Text reproduced in 19b under (62) | 19b |

2.3.2 Breadth of the territorial sea. Global or regional criteria. Open seas and oceans, semi-closed seas and enclosed seas

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(4) USA: Territorial Sea, Straits, Fisheries	Article 1(1) and (2): "1. Each State shall have the right, subject to the provisions of Article II, to establish the breadth of its territorial sea within limits of no more than 12 nautical miles, measured in accordance with the provisions of the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone."	Relates principally to 1.5
(6) Afghanistan, Austria, Belgium, Hungary, Nepal, Netherlands, Singapore: Working Paper	Part 1.A.: <u>Limits and status of the international area</u> "The international area shall comprise all sea-bed and subsoil outside the area of the territorial sea (the maximum breadth of which is 12 miles measured from the base-line) and beyond the submarine areas adjacent to the coasts of States."	
(8) Yaoundé: Conclusions	Part I (a) (2): "(2) The Territorial Sea should not extend beyond a limit of 12 nautical miles." [The Conclusions note: "However certain participants expressed reservations as to a 12 mile limit for the territorial sea and as to fixing a precise limit."]	
(10) Santo Domingo Declaration	Territorial sea, para. 2: "2. The breadth of the territorial sea and the manner of its delimitation should be the subject of an international agreement, preferably of a world-wide scope. <u>In the meantime, each State has the right to establish the breadth of its territorial sea up to a limit of 12 nautical miles to be measured from the applicable baseline.</u> "	

Provisions

Abbreviated title

(17) USSR: territorial
sea

Sole article:

(Add.)

"Subject to the provisions of articles 2 and 3, 1/ each State shall have the right to establish the breadth of its territorial sea at no more than 12 nautical miles measured in accordance with the provisions of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone."

(21) Greece: Median
line

"3. Failing such agreement, no State is entitled to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines, continental or insular, from which the breadth of the territorial seas of each of the two States is measured."

/Note: This paragraph is proposed by Greece as an addition to the proposal by Turkey (20), and also applies to the revised draft of Turkey, reproduced under (32)7.

(23) Cyprus: territorial
sea

Draft article

2.3.1

"Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line, every point of which is equidistant from the nearest points on the baselines, continental or insular, from which the breadth of the territorial seas of each of the two States is measured."

(25) Colombia, Mexico,
Venezuela:
territorial sea

Article 2:

"The breadth of the territorial sea shall not exceed 12 nautical miles to be measured from the applicable baselines."

1/ Reference is to the draft articles on straits used for international navigation submitted by the Union of Soviet Socialist Republics /See (9)7.

Cross reference

Abbreviated title

Provisions

(28) OAU Declaration

"... the African States endorse the principle that the base-lines of any archipelagic State may be drawn by connecting the outermost points of the outermost islands of the archipelago for the purposes of determining the territorial sea of the archipelagic State."

(29) Uruguay:
territorial sea

SECTION II. LIMITS OF THE TERRITORIAL SEA

Article 2

"1. Every State is entitled to determine the breadth of its territorial sea within limits not exceeding a distance of 200 nautical miles measured from the applicable baselines, subject to the provisions of the succeeding paragraphs.

"2. In regions with special characteristics, such as semi-enclosed or inland seas, where it is impossible for coastal States to fix the maximum breadth of their territorial seas, the breadth of the said seas shall be determined by agreement between the coastal States of the same region."

(32) Turkey:
territorial sea,
Rev.1

"1. Each State shall have the right to determine the breadth of its territorial sea within limits of no more than (...) miles, subject to the provisions of paragraph 2.

"2. In areas with special characteristics, such as the semi-enclosed and enclosed seas, where the exercise of this right by one State for the purpose of extending the breadth of its territorial sea may prejudice the rights and interests of other States of the area, the determination of the breadth of the territorial sea, within the limits specified in paragraph 1 above, shall be effected by the agreement of the States of that area."

Cross reference

Abbreviated title

Provisions

(34) Brazil: draft
articles

ARTICLE A

"1. Each State has the right to establish the breadth of its territorial sea within reasonable limits, taking into account geographical, social, economic, ecological and national security factors.

"2. The breadth of the territorial sea shall in no case exceed two hundred nautical miles measured from the baselines determined in accordance with article ... of the present Convention.

"3. States whose coasts do not face the open ocean shall enter into consultations with other States of the region with a view to determining a mutually agreed maximum breadth of the territorial sea appropriate to the particular characteristics of the region.

ARTICLE B

Within the limitations determined by article A, each State has the right to establish other modalities or combinations of legal régimes of sovereignty, jurisdiction or specialized competences in the marine area adjacent to its coasts."

3.1; 6.5

(35) Ecuador, Panama,
Peru: draft
articles

Articles 1 - 3:

"Article 1

1. The sovereignty of the coastal State and, consequently, the exercise of its jurisdiction, shall extend to the sea adjacent to its coast up to a limit not exceeding a distance of 200 nautical miles measured from the appropriate baselines.

2. The aforesaid sovereignty and jurisdiction shall also extend to the air space over the adjacent sea, as well as to its bed and subsoil.

Abbreviated title

Provisions

"Article 2

It shall be the responsibility of every coastal State to fix the limits of the adjacent sea under its sovereignty and jurisdiction, within the maximum distance referred to in article 1, with due regard to reasonable criteria taking account of the relevant geographical, geological, ecological, economic and social factors, as well as of consideration of the preservation of the marine environment and of national security.

16

"Article 3

1. The area of sovereignty and jurisdiction of an archipelagic State may be measured from straight baselines joining the outermost points of the outer islands and reefs of the archipelago.
2. In such cases, the waters enclosed by the baselines shall be considered internal waters, though vessels of any flag may sail in them, in accordance with the provisions laid down by the archipelagic State.

... (Complementary provisions)".

(38) Greece: islands

19

3. The territorial sea of the island is determined in accordance with the same provisions applicable for the measurements of the territorial sea of the continental part of the territory of the State.

(40) Tunisia, Turkey:
amendment to (23)

Delete the words "or insular" in (23) above.

(41) Tunisia, Turkey:
amendment to (21)

Delete the words "or insular" in (21) above.

Abbreviated title

Provisions

Cross reference

(57) Philippines:
breadth of
territorial
sea

Article 1

2.2

Each State shall have the right to establish the breadth of its territorial sea up to a limit not exceeding nautical miles, measured from the applicable baseline.

The maximum limit provided in this article shall not apply to historic waters held by any State as its territorial sea.

Any State which, prior to the approval of this Convention, shall have already established a territorial sea with a breadth more than the maximum provided in this Article shall not be subject to the limit provided herein.

(60) Bulgaria:
territorial sea
and its breadth

Article

Each State shall have the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines drawn in accordance with articles ... of this Convention and subject to the provisions of articles ... concerning straits used for international navigation.

(61) Pakistan:
territorial sea
and economic zone

Each coastal State shall have the right to establish the breadth of its territorial sea within limits not exceeding 12 nautical miles, measured from applicable baselines determined in accordance with Article ... of this Convention.

6.5

Each coastal State shall also have the right to establish its Exclusive Economic Zone not exceeding 200 nautical miles, calculated from the baseline used for the determination of the limits of territorial sea.

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(64) Jamaica: regional facilities	<p><u>"Article 1</u></p> <p>1. In any region where there are geographically disadvantaged coastal States, the nationals of such States shall have the right to exploit, on a reciprocal and preferential basis, the renewable resources within maritime zones beyond 12 miles from the coasts of the States of the region for the purpose of fostering the economic development of their fishing industry and satisfying the nutritional needs of the population.</p> <p>2. The procedures regulating the preferential régime referred to in paragraph 1 above shall be determined by regional, subregional and bilateral agreements.</p> <p><u>"Article 2</u></p> <p>Where by reason of the geography of a region or subregion the maritime zones beyond 12 miles from the coasts of States bordering on that region or subregion converge into each other and within the zone of convergence there are geographically disadvantaged coastal States, the nationals of such States shall have a right of equal access, to the living resources of the maritime zones in these convergent areas.</p> <p><u>"Article 3</u></p> <p>Except as provided in Article 4 nothing in Articles 1 and 2 shall apply to territories under foreign domination or forming an integral part of metropolitan powers outside the region.</p>	5, 6, 7, 10, 15

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(64) Jamaica: regional facilities (continued)	<p><u>"Article 4</u></p> <p>In the application of Articles 1 and 2 to the Associated States, Self-Governing Territories and territories under foreign domination the rights thereby conferred shall be so applied as only to confer rights on the inhabitants of such territories for the purpose of their domestic needs.</p> <p><u>"Article 5</u></p> <p>For the purposes of these Articles</p> <p>(a) 'geographically disadvantaged coastal States' means developing States which for geographical, biological or ecological reasons -</p> <p>(i) derive no substantial advantage from the extension of their maritime jurisdiction; or</p> <p>(ii) are adversely affected by the extension of maritime jurisdiction of other States; or</p> <p>(iii) have short coastlines and cannot extend uniformly their national jurisdiction.</p> <p>(b) 'nationals' include enterprises substantially owned and effectively controlled by nationals."</p>	

2.4 Innocent passage in the territorial sea

Abbreviated title

Provisions

- | | |
|---|--|
| <p>(10) Santo Domingo Declaration</p> | <p>Territorial sea, para. 3:</p> <p>"3. Ships of all States, whether coastal or not, should enjoy the right of innocent passage through the territorial sea, in accordance with International Law."</p> |
| <p>(18) Fiji, Indonesia, Mauritius and Philippines: Archipelagic principles</p> | <p>Principle 3:</p> <p>"3. Innocent passage of foreign vessels through the waters of the archipelagic State shall be allowed in accordance with its national legislation, having regard to the existing rules of international law. Such passage shall be through sealanes as may be designated for that purpose by the archipelagic State."</p> |
| <p>(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen: territorial sea, straits (navigation)</p> | <p>Articles 1 - 23:</p> <p><u>"Section I. Rules applicable to all ships</u>
<u>Subsection A. Right of innocent passage</u></p> <p><u>Article 1</u> Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.</p> <p><u>Article 2</u> 1. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.</p> <p>2. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by "force majeure" or by distress.</p> <p><u>Article 3</u> 1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.</p> |

2. Passage shall be continuous and expeditious. Passing ships shall refrain from manoeuvring unnecessarily: hovering, or engaging in any activity other than mere passage.

3. Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the Coastal State in conformity with these articles and other rules of international law.

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

5. Submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Article 4 The coastal State must not hamper innocent passage through the territorial sea. In particular, it shall not impede the innocent passage of a foreign ship flying the flag of a particular State or carrying goods owned by a particular State, proceeding from the territory of or consigned to such a State.

Article 5 1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

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

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

Abbreviated title

Provisions

Cross reference

4. Subject to the provisions of articles 8, 22, paragraph 3 and 23, there shall be no suspension of the innocent passage of foreign ships through straits used for international navigation which form part of the territorial sea.

Subsection B. Regulation of passage

Article 6 The coastal State may enact regulations relating to navigation in its territorial sea. Such regulations may relate, inter alia, to the following:

- (a) Maritime safety and traffic and, in particular, the establishment of sea lanes and traffic separation schemes;
- (b) Installation and utilization of facilities and systems of aids of navigation and the protection thereof;
- (c) Installation and utilization of facilities to explore and exploit marine resources and the protection thereof;
- (d) Maritime transport;
- (e) Passage of ships with special characteristics;
- (f) Preservation of marine and coastal environment and prevention of all forms of pollution;
- (g) Research of the marine environment.

Article 7 In exercising the right of innocent passage through the territorial sea, foreign ships will not be allowed to perform activities such as

- (a) Engaging in any act of espionage or collecting of information affecting the security of the coastal State;
- (b) Engaging in any act of propaganda against the coastal State or of interference with its systems of communications;

Abbreviated title

Provisions

Cross reference

(c) Embarking or disembarking troops, crew members, frogmen or any other person or device without the authorization of the coastal State;

(d) Engaging in illicit trade;

(e) Destroying or damaging submarine or aerial cables, tubes, pipe-lines or all forms of installations and constructions;

(f) Exploring or exploiting marine and subsoil resources without the authorization of the coastal State.

Article 8 1. The coastal State may designate in its territorial sea, sea lanes and traffic separation schemes, taking into account those recommended by competent international organizations, and prescribe the use of such sea lanes and traffic separation schemes as compulsory for passing ships.

Article 9 1. The coastal State is required to give appropriate publicity to any dangers of navigation, of which it has knowledge, within its territorial sea.

2. The coastal State is required to give appropriate publicity to the existence in its territorial sea of any facilities or systems of aid to navigation and of any facilities to explore and exploit marine resources which could be an obstacle to navigation, and to install in a permanent way the necessary marks to warn navigation of the existence of such facilities and systems.

Article 10 1. The coastal State may require any foreign ship that does not comply with the provisions concerning regulation of passage to leave its territorial sea.

Abbreviated title

Provisions

Section II. Rules applicable to certain types of ships
Subsection A. Merchant ships

Article 11 1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

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

3. The coastal State shall have the right to be compensated for works undertaken to facilitate passage.

Article 12

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

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

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

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

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

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

Abbreviated title

Provisions

Cross reference

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

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

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

Article 13

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

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

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

Abbreviated title

Provisions

Subsection B. Ships with special characteristics

Article 14 The coastal State may regulate the passage through its territorial sea of the following:

- (a) Nuclear-powered ships or ships carrying nuclear weapons;
- (b) Ships carrying nuclear substances or any other material which may endanger the coastal State or pollute seriously the marine environment;
- (c) Ships engaged in research of the marine environment.

Article 15 1. The coastal State may require prior notification to or authorization by its competent authorities for the passage through its territorial sea of foreign nuclear-powered ships or ships carrying nuclear weapons, in conformity with regulations in force in such a State.

2. The provisions of paragraph 1 shall not prejudice any agreement to which the coastal State may be a party.

Article 16 The coastal State may require that the passage through its territorial sea of foreign ships carrying nuclear substances or any other material which may endanger the coastal State or pollute seriously the marine environment be conditional upon any or all of the following:

- (a) Prior notification to its competent authorities;
- (b) Coverage by an international insurance or guarantee certificate for damages that might be caused by such carriage;
- (c) Use of designated sea lanes.

Abbreviated title

Provisions

Article 17 1. The coastal State may require prior notification to its competent authorities for the passage through its territorial sea of foreign ships engaged in research of the marine environment, in conformity with regulations in force in such a State.

2. During their passage through the territorial sea, foreign ships engaged in research of the marine environment will not be entitled to carry out any scientific research or hydrographic survey without the explicit authorization of the coastal State.

Article 18 In order to expedite passage the coastal State shall ensure that the procedure of notification referred to in different articles of this section shall not cause undue delay.

Subsection C. Government ships other than warships

Article 19 The rules contained in subsections A and B of this section shall also apply to government ships operated for commercial purposes.

Article 20 1. The rules contained in articles 11, 15, 16(a) and (c), 17 and 18 of this convention shall apply to government ships operated for non-commercial purposes.

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

Subsection D. Warships

Article 21 The coastal State may require prior notification to or authorization by its competent authorities for the passage of foreign warships through its territorial sea, in conformity with regulations in force in such a State.

Article 22 1. Foreign warships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law.

Cross reference

Abbreviated title

Provisions

2. Foreign warships exercising the right of innocent passage shall not perform any activity which does not have a direct bearing with the passage, such as:

- (a) Carrying out any exercise or practice with weapons of any kind;
- (b) Assuming combat position by the crew;
- (c) Flying their aircraft;
- (d) Intimidation or displaying of force;
- (e) Carrying out research operations of any kind.

3. Foreign warships exercising the right of innocent passage may be required to pass through certain sea lanes as may be designated for this purpose by the coastal State.

Article 23 If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea."

(25) Colombia, Mexico,
Venezuela:
Territorial sea

Article 3:

"Without prejudice to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea."

2.4 Innocent passage in the territorial sea

Abbreviated title

Provisions

(29) Uruguay:
territorial sea

Articles 6, 15, 16 and 17

"Article 6

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

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

"Article 15 On territorial seas whose breadth does not exceed 12 nautical miles measured from the applicable baselines, ships of all States, whether coastal or not, shall enjoy the right of innocent passage subject to the provisions of articles

"Article 16 On territorial seas whose breadth exceeds 12 nautical miles measured from the applicable baselines, ships of all States, whether coastal or not, shall enjoy the right of innocent passage in the form prescribed in article 15, within the belt of the first 12 nautical miles.

Beyond the said 12 nautical miles, ships and aircraft of all States, whether coastal or not, shall enjoy the right of free navigation or and overflight over the territorial sea without restrictions other than those which may derive from the regulations enacted by the coastal State with regard to its security, the preservation of the environment, the exploration, conservation and exploitation of resources, scientific research and the safety of navigation and aviation and from the corresponding measures adopted by it in conformity with international law."

"Articles 17 et seq. Definition of innocent passage. Rules applicable to the various types of ships."

Cross reference

Provisions

Abbreviated title

- (36) Ecuador, Panama and Peru:
draft articles
Articles 4 and 5
"Article 4 1. In the sea under the sovereignty and jurisdiction of the coastal State, vessels of any flag may sail freely, without restrictions other than those imposed by the duties of peaceful co-existence and compliance with the provisions laid down by the coastal State as regards the prospecting, exploration, conservation and exploitation of resources, the preservation of the marine environment, scientific research, the emplacement of installations and safeguards for navigation and shipping.
2. In so far as they are relevant, the provisions of the preceding paragraph shall also apply to aircraft."
"Article 5 Notwithstanding the provisions of article 4, the coastal State may lay down additional provisions for the passage of foreign vessels and aircraft within a limit close to its coast, for the purpose of safeguarding national peace, order and security.
... (Complementary provisions, including passage through straits used for international navigation).....
Articles 32-35
"Article 32 In a belt of ocean space adjacent to its coast, not exceeding twelve nautical miles in breadth measured from the applicable baselines, the coastal State in addition to the measures contemplated in the foregoing articles, may:
(a) establish compulsory traffic separation schemes, designate safe sea-lanes and establish draft limits for navigation in certain areas;
(b) require that passage be continuous and expeditious;
- (37) Malta: coastal States jurisdiction

Cross reference

Abbreviated title

Provisions

- (37) Malta: coastal States jurisdiction (continued)
- (c) take such measures as may be necessary to bring to the surface of the sea an unknown submersible found lurking in the sea or resting on the sea-bed;
- (d) prevent passage which it deems to be seriously prejudicial to its peace, good order or security;
- (e) Subject to the provisions of articles 36 and 37, suspend temporarily in specified areas the passage of foreign vessels if such suspension is essential for the protection of its security.
- (f) Subject to the provisions of articles 36 and 37, establish precisely delimited zones closed to foreign warships for reasons of national security.
- (g) In the case of vessels proceeding to internal waters, take the necessary steps to prevent any breach of the conditions to which admission of those vessels to those waters is subject." (34)
- "Article 33 1. Measures taken by the coastal State under sub-paragraphs (a), (b), (d), (e) and (f) of the foregoing article shall be non-discriminatory and shall not take effect unless notified to the International Ocean Space Institutions and duly published.
2. The International Ocean Space Institutions may recommend that the coastal State rescind or modify measures found to be discriminatory or to constitute an unreasonable impediment to navigation. In the event of continued disagreement between the International Ocean Space Institutions and the coastal State the matter shall be submitted to the International Maritime Court for binding adjudication."

(34) See Article 16 (1), (2), (3), 1958 Territorial Sea Convention.

Cross reference

Provisions

Abbreviated title

(37) Malta: coastal
States jurisdiction
(continued)

"Article 34 Foreign warships exercising the right of passage within a belt of ocean space adjacent to the coast of a State not exceeding twelve nautical miles in the breadth measured from the applicable baseline shall not fly their aircraft, practice their weapons, engage in research or intelligence gathering operations or in activities deemed unfriendly by the coastal State nor shall they exercise the right of passage in such a manner as to impede the navigation of other vessels."

"Article 35 1. The coastal State may require a foreign warship, which does not comply with the provisions of the foregoing article and disregards any request for compliance to leave national ocean space.

2. Grave or repeated violations of the provisions of these articles and of Article 42 relating to the exercise of the right of passage by warships may be brought to the attention of the International Ocean Space Institutions by the coastal State."

(43) China: working
paper

Territorial sea, para. (8)

"(8) A coastal State may, for the purpose of regulation of its territorial sea, enact necessary laws and regulations and give publicity thereto. Ships and aircraft of a foreign State, passing through the territorial sea and the airspace thereabove of another State, shall comply with the laws and regulations of the latter State.

Foreign non-military ships enjoy innocent passage through territorial seas

Passage is innocent when it is not prejudicial to the peace, security and good order of a coastal State.

Provisions

Abbreviated title

(43) China: working
paper (continued)

A coastal State may, in accordance with its laws and regulations, require military ships of foreign States to tender prior notification to, or seek prior approval from, its competent authorities before passing through its territorial sea."

(46) Argentina:
draft articles

Para. 3

"3. Ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea in accordance with the following provisions:"

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(51) Fiji: passage through territorial sea	Articles 1-14	
	<u>Section I. Rules applicable to all ships</u>	
	Sub-Section A. Right of innocent passage	4.1
	<u>"Article 1</u>	
	"Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea."	
	<u>Article 2</u>	
	"1. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering any port in the coastal State, or of proceeding to any port in the coastal State from the high seas, or of making for the high seas from any port in the coastal State."	
	"2. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress; otherwise passage shall be continuous and expeditious."	
	"3. For the purposes of these articles the term "port" includes any harbour or roadstead normally used for the loading, unloading or anchoring of ships."	
	<u>Article 3</u>	
	1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.	
	2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State, if in the territorial sea it engages in any of the following activities:	
	(a) any warlike act against the coastal or any other State;	
	(b) any exercise or practise with offensive weapons of any kind;	
	(c) the launching or taking on board of any aircraft;	

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(51) Fiji: passage through territorial sea (continued)	<p>(d) the launching, landing or taking on board of any warlike device;</p> <p>(e) the embarking or disembarking of any person;</p> <p>(f) any act of espionage affecting the defence or security of the coastal State;</p> <p>(g) any act of propaganda affecting the security of the coastal State;</p> <p>(h) any act of interference with any systems of communications of the coastal State;</p> <p>(i) any act of interference with any other facility or installation of the coastal State;</p> <p>(j) any other activity not having a direct bearing on passage.</p>	
	3. The provisions of paragraph 2 of this article shall not apply to any activities carried out with the prior authorization of the coastal State or as are rendered necessary by <u>force majeure</u> or distress or for the purpose of rendering assistance to persons or vessels in danger or distress.	
	4. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea and, in particular, it shall not, in the application of these articles or of any laws or regulations made under the provisions of these articles, discriminate against the ships of any particular State or against ships carrying cargoes to, from or on behalf of any particular State.	

Abbreviated title

Provisions

Cross reference

(51) Fiji: passage
through territorial
sea
(continued)

5. The coastal State is required to give appropriate publicity to any obstacles or dangers to navigation, of which it has knowledge, within the territorial sea.
6. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.
7. In the case of ships proceeding to any port in the coastal State, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to such port is subject.

Article 4

1. Subject to the provisions of paragraph 2 of this article, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of the territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been given due publicity.
2. Except to the extent authorized under the provisions of these articles, there shall be no suspension of the innocent passage of foreign ships through straits used for international navigation or through sealanes designated under the provisions of these articles.

Sub-section B. Regulation of passage

Abbreviated title

(51) Fiji: passage
through territorial
sea
(continued)

Provisions

Article 5

Cross reference

1.

The coastal State may make laws and regulations, in conformity with the provisions of these articles or other rules of international law, relating to passage through the territorial sea, which laws and regulations may be in respect of all or any of the following:

- (a) the safety of navigation and the regulation of marine traffic;
 - (b) the utilization of, and the prevention of destruction or damage to, facilities and systems of aids to navigation;
 - (c) the prevention of destruction or damage to facilities or installations for the exploration and exploitation of the marine resources, including the resources of the seabed and subsoil, of the territorial sea;
 - (d) the prevention of destruction or damage to submarine or aerial cables and pipelines;
 - (e) the preservation of the environment of the coastal State, and the prevention of pollution thereto;
 - (f) research of the marine environment;
 - (g) prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary regulations of the coastal State.
2. The coastal State shall give due publicity to all laws and regulations made under the provisions of this article

3. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State.

Sub-section C. Ships having special characteristics

Article 6

1. Submarines and other underwater vehicles may be required to navigate on the surface and to show their flag except in cases where they:

- (a) have given prior notification of their passage to the coastal State; and
- (b) if so required by the coastal State, confine their passage to such sealanes as may be designated for that purpose by the coastal State.

Abbreviated title

(51) Fiji: passage
through territorial
sea
(continued)

Provisions

Cross reference

2. Tankers and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to give prior notification of their passage to the coastal State and to confine their passage to such sealanes as may be designated for that purpose by the coastal State.
3. For the purposes of this article, the term "tanker" includes any ship used for the carriage in bulk in a liquid state of petroleum, natural gas or any other highly inflammable, explosive or pollutive substance.
4. Marine research and hydrographic survey ships may be required to give prior notification of their passage to the coastal State and to confine their passage to such sealanes as may be designated for that purpose by the coastal State.
5. During their passage through the territorial sea foreign marine research and hydrographic survey ships may not carry out any research or survey activities without the prior authorization of the coastal State.
6. A coastal State which designates sealanes under the provisions of this article may also prescribe traffic separation schemes including depth separation schemes for the regulation of the passage of ships through those sealanes.
7. A coastal State may from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.
8. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article a coastal State shall take into account:
 - (a) The recommendations of competent international organizations;
 - (b) Any channels customarily used for international navigation;
 - (c) The special characteristics of particular channels; and
 - (d) The special characteristics of particular ships.

Abbreviated title

(51) Fiji: passage
through territorial
sea
(continued)

Provisions

Cross reference

9. The coastal State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.
10. In order to expedite the passage of ships through the territorial sea the coastal State shall ensure that the procedures for notification under the provisions of this article shall be such as not to cause any undue delay.

Section II. Rules applicable to merchant Ships

Article 7

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.
2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

Article 8

1. The criminal jurisdiction of the coastal State shall not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:
 - (a) If the consequences of the crime extend to the coastal State; or
 - (b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or
 - (c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or
 - (d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

Abbreviated title

Provisions

Cross reference

(51) Fiji: passage
through territorial
sea
(continued)

2. The provisions of paragraph 1 of this article do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving any port in the coastal State.
3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.
4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.
5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering any port in the coastal State.

Article 2

1. The coastal State shall not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.
2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its passage through the waters of the coastal State.

Abbreviated title

(51) Fiji: passage
through territorial
sea
(continued)

Provisions

3. The provisions of paragraph 2 of this article are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving any port in the coastal State.

Section III. Rules applicable to government ships

Sub-section A. Government ships other than warships

Article 10

The rules contained in Sections I and II of these articles shall apply to government ships operated for commercial purposes.

Article 11

1. The rules contained in Section I and in article 7 of these articles shall apply to government ships operated for non-commercial purposes.
2. With such exceptions as are contained in paragraph 1 of this article or in article 14 of these articles nothing in these articles affects the immunities which such ships enjoy under the provisions of these articles or other rules of international law.

Sub-section B. Warships

Article 12

1. For the purposes of this article, the term "warship" means a ship belonging to the naval forces of a State bearing the external marks distinguishing naval vessels of its nationality,

Abbreviated title

(51) Fiji: passage
through territorial
sea
(continued)

Provisions

under the command of an officer duly commissioned by the government of that State and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

Cross reference

2. The rules contained in Section I of these articles shall apply to warships.
3. Foreign warships exercising the right of innocent passage shall not, in the territorial sea:
 - (a) Carry out any manoeuvres other than those having direct bearing on passage; or
 - (b) undertake any hydrographical survey work or any marine research activities.
4. If any warship does not comply with the laws and regulations of the coastal State relating to passage through the territorial sea or fails to comply with the requirements of paragraph 3 of this article, and disregards any request for compliance which is made to it, the coastal State may suspend the right of passage of such warship and may require it to leave the territorial sea by such route as may be directed by the coastal State. In addition to such suspension of passage, the coastal State may prohibit the passage of that warship through the territorial sea for such period as may be determined by the coastal State.

Article 13

With such exceptions as are contained in Articles 12 and 14 of these articles nothing in these articles affects the immunities which warships enjoy under the provisions of these articles or other rules of international law.

Sub-section C. Liability of government ships

Abbreviated title

- (51) Fiji: passage
through territorial
sea
(continued)

Provisions

Article 14

If, as a result of any non-compliance by any warship or other government ship operated for non-commercial purposes with any of the laws or regulations of the coastal State relating to passage through the territorial sea or with any of the provisions of these articles or other rules of international law, any damage is caused to the coastal State, including its environment and any of its facilities, installations or other property, or to any of its flag vessels, then liability for such damage shall be borne by the flag State of the ship causing such damage.

- (54) United Kingdom:
Archipelagic States

Paragraph 8 - Text reproduced in 16 under (54)

16

- (58) Fiji, Indonesia,
Mauritius and the
Philippines:
archipelagos

Article IV and V - Text reproduced in 16 under (58)

16

2.5 Freedom of navigation and overflight resulting from the question of
plurality of régimes in the territorial sea

Abbreviated title

(9) USSR: Straits

(First) Article, para. 3 (a)
(straits lying within the territorial waters of one or more
coastal States)

(Text reproduced under 4.2)

Provisions

Cross reference

Relates
principally to
4.2

3. CONTIGUOUS ZONE

3.1 Nature and characteristics

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé: Conclusions	Part I (a) On the territorial sea, the <u>contiguous zone</u> and the high seas: "(1) The African States have the right to determine the limits of their jurisdiction over the seas adjacent to their coasts in accordance with reasonable criteria which particularly take into account their own geographical, geological, biological and national security factors."	
(34) Brazil: Draft articles	Article B: Within the limitations determined by article A, each State has the right to establish other modalities or combinations of legal regimes of sovereignty, jurisdiction or specialized competences in the marine area adjacent to its coasts." [text of Article A is reproduced under 2.3.2, sub (34)]	2.3.2; 6.5
(37) Malta: coastal State jurisdiction	Article 2: "1. The jurisdiction of a State extends to a belt of ocean space adjacent to its coast, described as national ocean space. 2. This jurisdiction is exercised subject to the provisions of these articles and to other rules of international law."	2.3; 6.5

3.2 Limits

Provisions

Cross reference

Abbreviated title

3.3 Rights of coastal States with regard to national security, customs and
fiscal control, sanitation and immigration regulations

Abbreviated title

Provisions

Cross reference

4. STRAITS USED FOR INTERNATIONAL NAVIGATION

4.1 Innocent passageCross referenceAbbreviated titleProvisions

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen:

Articles 1-23.
The introductory part of this proposal states, inter alia, that "Navigation through the territorial sea and through straits used for international navigation should be dealt with as an entity since the straits in question are or form part of territorial seas."

Accordingly, the proposal, already classified under 2.4 (freedom of navigation in the territorial sea), is also classified under 4.1.

The full text of the proposal is reproduced in 2.4

(28) OAU Declaration

Part A, para. 3:

(Declares) "That the African States in view of the importance of international navigation through straits used as such endorse the régime of innocent passage in principle but recognize the need for further precision of the régime;"

(39) Italy: Straits

"(B) Transit and overflight shall be governed by the provisions concerning innocent passage in straits which:

(1) Are not more than six miles wide;

(2) Lie between coasts of the same State; and

(3) Are near other routes of communication between the parts of the sea connected by the straits."

(43) China: Working Paper

"(7) A strait lying within the territorial sea, whether or not it is frequently used for international navigation, forms an inseparable part of the territorial sea of the coastal State."

2.4

2.4

Cross reference

Abbreviated title

Provisions

(51) Fiji: passage
through
territorial
sea

Articles 1-14

"Section I. Rules applicable to all ships

Sub-section A. Right of innocent passage

2.4

Article 1

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

Article 2

1. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering any port in the coastal State, or of proceeding to any port in the coastal State from the high seas, or of making for the high seas from any port in the coastal State.

2. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress; otherwise passage shall be continuous and expeditious.

3. For the purposes of these articles the term "port" includes any harbour or roadstead normally used for the loading, unloading or anchoring of ships.

Article 3

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

Cross reference

Provisions

Abbreviated title

- (51) Fiji: passage through territorial sea
(continued)
2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State, if in the territorial sea it engages in any of the following activities:
- (a) any warlike act against the coastal or any other State;
 - (b) any exercise or practice with offensive weapons of any kind;
 - (c) the launching or taking on board of any aircraft;
 - (d) the launching, landing or taking on board of any warlike device;
 - (e) the embarking or disembarking of any person;
 - (f) any act of espionage affecting the defence or security of the coastal State;
 - (g) any act of propaganda affecting the security of the coastal State;
 - (h) any act of interference with any systems of communications of the coastal State;
 - (i) any act of interference with any other facility or installation of the coastal State;
 - (j) any other activity not having a direct bearing on passage.

Cross reference

Abbreviated title

Provisions

(51) Fiji: passage
through
territorial
sea
(continued)

3. The provisions of paragraph 2 of this article shall not apply to any activities carried out with the prior authorization of the coastal State or as are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons or vessels in danger or distress.
4. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea and, in particular, it shall not, in the application of these articles or of any laws or regulations made under the provisions of these articles, discriminate against the ships of any particular State or against ships carrying cargoes to, from, or on behalf of, any particular State.
5. The coastal State is required to give appropriate publicity to any obstacles or dangers to navigation, of which it has knowledge, within the territorial sea.
6. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.
7. In the case of ships proceeding to any port in the coastal State, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to such port is subject.

Article 4

1. Subject to the provisions of paragraph 2 of this article, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified

Cross reference

Abbreviated title

Provisions

(51) Fiji: passage
through
territorial
sea
(continued)

areas of the territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been given due publicity.

2. Except to the extent authorized under the provisions of these articles, there shall be no suspension of the innocent passage of foreign ships through straits used for international navigation or through searoutes designated under the provisions of these articles.

Sub-section B. Regulation of passage

Article 5

1. The coastal State may make laws and regulations, in conformity with the provisions of these articles or other rules of international law, relating to passage through the territorial sea, which laws and regulations may be in respect of all or any of the following:

- (a) the safety of navigation and the regulation of marine traffic;
- (b) the utilization of, and the prevention of destruction or damage to, facilities and systems of aids to navigation;
- (c) the prevention of destruction or damage to facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil, of the territorial sea;

Cross reference

Abbreviated title

Provisions

- (51) Fiji: passage through territorial sea
(continued)
- (d) the prevention of destruction or damage to submarine or aerial cables and pipelines;
- (e) the preservation of the environment of the coastal State, and the prevention of pollution thereto;
- (f) research of the marine environment;
- (g) prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary regulations of the coastal State.
2. The coastal State shall give due publicity to all laws and regulations made under the provisions of this article.
3. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State.

Sub-section C. Ships having special characteristics

Article 6

1. Submarines and other underwater vehicles may be required to navigate on the surface and to show their flag except in cases where they:
- (a) have given prior notification of their passage to the coastal State; and
- (b) if so required by the coastal State, confine their passage to such sealanes as may be designated for that purpose by the coastal State.

Cross reference

Abbreviated title

Provisions

(51) Fiji: passage
through
territorial
sea
(continued)

2. Tankers and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to give prior notification of their passage to the coastal State and to confine their passage to such sealanes as may be designated for that purpose by the coastal State.

3. For the purposes of this article, the term "tanker" includes any ship used for the carriage in bulk in a liquid state of petroleum, natural gas or any other highly inflammable, explosive or pollutive substance.

4. Marine research and hydrographic survey ships may be required to give prior notification of their passage to the coastal State and to confine their passage to such sealanes as may be designated for that purpose by the coastal State.

5. During their passage through the territorial sea foreign marine research and hydrographic survey ships may not carry out any research or survey activities without the prior authorization of the coastal State.

6. A coastal State which designates sealanes under the provisions of this article may also prescribe traffic separation schemes including depth separation schemes for the regulation of the passage of ships through those sealanes.

7. A coastal State may from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

Cross reference

Abbreviated title

Provisions

- (51) Fiji: passage through territorial sea
(continued)
8. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article a coastal State shall take into account:
- (a) The recommendations of competent international organizations;
 - (b) Any channels customarily used for international navigation;
 - (c) The special characteristics of particular channels; and
 - (d) The special characteristics of particular ships.
9. The coastal State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.
10. In order to expedite the passage of ships through the territorial sea the coastal State shall ensure that the procedures for notification under the provisions of this article shall be such as not to cause any undue delay.

Section II. Rules applicable to merchant ships

Article 7

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

Abbreviated title

(51) Fiji: passage
through
territorial
sea
(continued)

Provisions

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

Cross reference

Article 8

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

- (a) If the consequences of the crime extend to the coastal State; or
 - (b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or
 - (c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or
 - (d) If it is necessary for the suppression of illicit traffic in narcotic drugs.
2. The provisions of paragraph 1 of this article do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving any port in the coastal State.

Abbreviated title

(51) Fiji: passage
through
territorial
sea
(continued)

Provisions

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.
4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.
5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering any port in the coastal State.

Article 9

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

Cross reference

Cross reference

Provisions

Abbreviated title

(51) Fiji: passage through territorial sea
(continued)

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

3. The provisions of paragraph 2 of this article are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving any port in the coastal State.

Section III. Rules applicable to government ships

Sub-section A. Government ships other than warships

Article 10

The rules contained in Sections I and II of these articles shall apply to government ships operated for commercial purposes.

Article 11

1. The rules contained in Section I and in article 7 of these articles shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in paragraph 1 of this article or in article 14 of these articles nothing in these articles affects the immunities which such ships enjoy under the provisions of these articles or other rules of international law.

Cross reference

Abbreviated title

(51) Fiji: passage
through
territorial
sea
(continued)

Provisions

Sub-section B. Warships

Article 12

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

2. The rules contained in Section I of these articles shall apply to warships.

3. Foreign warships exercising the right of innocent passage shall not, in the territorial sea:

- (a) Carry out any manoeuvres other than those having direct bearing on passage; or
- (b) undertake any hydrographical survey work or any marine research activities.

4. If any warship does not comply with the laws and regulations of the coastal State relating to passage through the territorial sea or fails to comply with the requirements of paragraph 3 of this article, and disregards any request for compliance which is made to it, the coastal State may suspend the right of passage of such warship and may require it to leave the territorial sea by such route as may be directed by the coastal State. In addition to such suspension of passage, the coastal State may prohibit the passage of that warship through the territorial sea for such period as may be determined by the coastal State.

Cross reference

Provisions

Article 13

With such exceptions as are contained in articles 12 and 14 of these articles nothing in these articles affects the immunities which warships enjoy under the provisions of these articles or other rules of international law.

Sub-section C. Liability of government ships

Article 14

If, as a result of any non-compliance by any warship or other government ship operated for non-commercial purposes with any of the laws or regulations of the coastal State relating to passage through the territorial sea or with any of the provisions of these articles or other rules of international law, any damage is caused to the coastal State, including its environment and any of its facilities, installations or other property, or to any of its flag vessels, then liability for such damage shall be borne by the flag State of the ship causing such damage."

Abbreviated title

(51) Fiji: passage
through
territorial
sea
(continued)

4.2 Other related matters including the question of the right of transit

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(4) USA: Territorial sea, straits, fisheries	<p>Article II:</p> <p>"1. In straits used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State, all ships and aircraft in transit shall enjoy the same freedom of navigation and overflight, for the purpose of transit through and over such straits, as they have on the high seas. Coastal States may designate corridors suitable for transit by all ships and aircraft through and over such straits. In the case of straits where particular channels of navigation are customarily employed by ships in transit, the corridors, so far as ships are concerned, shall include such channels.</p>	
(9) USSR: Straits	<p>"2. The provisions of this Article shall not affect conventions or other international agreements already in force specifically relating to particular straits."</p> <p>"Article (1)</p> <p>"1. In straits used for international navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the same freedom of navigation, for the purpose of transit through such straits, as they have on the high seas. Coastal States may, in the case of narrow straits, designate corridors suitable for transit by all ships through such straits. In the case of straits where particular channels of navigation are customarily employed by ships in transit, the corridors shall include such channels.</p>	2.5

Abbreviated title

(9) USSR: Straits
(continued)

Provisions

"2. The freedom of navigation provided for in this article, for the purpose of transit through the straits, shall be exercised in accordance with the following rules:

(a) Ships in transit through the straits shall take all necessary steps to avoid causing any threat to the security of the coastal States of the straits, and in particular warships in transit through such straits shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, launch their aircraft, undertake hydrographical work or engage in other acts of a nature unrelated to the transit;

(b) Ships in transit through the straits shall strictly comply with the international rules concerning the prevention of collisions between ships or other accidents and, in straits where separate lanes are designated for the passage of ships in each direction, shall not cross the dividing line between the lanes. They shall also avoid making unnecessary manoeuvres;

(c) Ships in transit through the straits shall take precautionary measures to avoid causing pollution of the waters and coasts of the straits, or any other kind of damage to the coastal States of the straits;

Cross reference

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(9) USSR: Straits (continued)	<p>"(d) Liability for any damage which may be caused to the coastal States of the straits as a result of the transit of ships shall rest with the flag-State of the ship which has caused the damage or with juridical persons under its jurisdiction or acting on its behalf;</p> <p>(e) No State shall be entitled to interrupt or stop the transit of ships through the straits, or engage therein in any acts which interfere with the transit of ships, or require ships in transit to stop or communicate information of any kind.</p> <p>3. The provisions of this article:</p> <p>(a) shall apply to straits lying within the territorial waters of one or more coastal States;</p> <p>(b) shall not affect the sovereign rights of the coastal States with respect to the surface, the seabed and the living and mineral resources of the straits;</p> <p>(c) shall not affect the legal régime of straits through which transit is regulated by international agreements specifically relating to such straits."</p> <p>"Article 2.</p> <p>"1. In the case of straits over which the airspace is used for flights by foreign aircraft between one part of the high seas and another part of the high seas, all aircraft shall enjoy the same freedom of overflight over such straits as they have in the</p>	2.5

Abbreviated title

Provisions

airspace over the high seas. Coastal States may designate special air corridors suitable for overflight by aircraft, and special altitudes for aircraft flying in different directions, and may establish particulars for radio-communication with them.

"2. The freedom of overflight by aircraft over the straits, as provided for in this article, shall be exercised in accordance with the following rules:

"(a) Overflying aircraft shall take the necessary steps to keep within the boundaries of the corridors and at the altitude designated by the coastal States for flights over the straits, and to avoid overflying the territory of a coastal State, unless such overflight is provided for by the delimitation of the corridor designated by the coastal State;

"(b) Overflying aircraft shall take all necessary steps to avoid causing any threat to the security of the coastal States, and in particular military aircraft shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, take aerial photographs, circle or dive down towards ships, take on fuel or engage in other acts of a nature unrelated to the overflight;

"(c) Liability for any damage which may be caused to the coastal States as a result of the overflight of aircraft over the straits shall rest with the State to which the aircraft that has caused the damage belongs, or with juridical persons under its jurisdiction or acting on its behalf;

"(d) No State shall be entitled to interrupt or stop the overflight of foreign aircraft, in accordance with this article, in the airspace over the straits.

"3. The provisions of this article:

(a) shall apply to flights by aircraft over straits lying within the territorial waters of one or more coastal States;

(b) shall not affect the legal régime of straits over which overflight is regulated by international agreements specifically relating to such straits."

Provisions

Abbreviated title

(37) Malta: Coastal State Jurisdiction

Articles 36 - 42:

Article 36

"1. There shall be no suspension of passage through straits more than twenty-four nautical miles wide which are, or can be, used for international navigation. 36/

"2. Subject to the provisions of articles 21, 22 and 23, the coastal State must not hamper passage through straits more than twenty-four miles wide which are, or can be, used for international navigation.

Article 37

"1. The coastal State must not hamper passage through straits less than twenty-four miles wide which are, or can be, used for international navigation subject only to the provisions of the following paragraph and of article 38".

"2. In the case of straits less than 24 nautical miles wide which are, or can be, used for international navigation, the coastal State or States may as a condition of passage:

- (a) require compliance with compulsory traffic separation schemes; with designated safe sea-lanes and, when necessary, with safe draft limits;
- (b) require that passage be continuous and expeditious;
- (c) require, when passage is hazardous, the use by transiting vessels of pilots designated by the coastal State;
- (d) require three days prior notification of the passage of foreign submarines or of foreign warships. In addition the coastal State may:

36/ See for analogy Article 16, (4), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

"(i) take such measures as may be necessary to bring to the surface an unknown submersible found lurking in the strait;

"(ii) in the case of vessels proceeding to internal waters take the necessary steps to prevent any breach of the conditions to which admission of those vessels to those waters is subject.

"3. Measures taken by the coastal State under sub-paragraphs (a), (b), (c) and (d) of the foregoing paragraph shall be non-discriminatory and shall not take effect unless notified to the International Ocean Space Institutions and duly published."

"4. The International Ocean Space Institutions may recommend that the coastal State rescind or modify measures found to be discriminatory or unreasonable or to constitute an unnecessary impediment to navigation. In the event of continued disagreement between the International Ocean Space Institutions and the coastal State the matter shall be submitted to the International Maritime Court for binding adjudication."

Article 38

"The coastal State or States may take measures to prevent or suspend passage through straits less than 24 nautical miles wide which are, or can be used, for international navigation only in case of reasonable fear of grave and imminent threat to its or their security. Such measures shall be notified to the International Ocean Space Institutions, and shall lapse after thirty days unless the consent of the Institutions to such measures is obtained."

Article 39

"1. The coastal State or States are required to take effective measures to maintain and facilitate navigation through straits used for international navigation the breadth of which is less than 24 nautical miles."

Abbreviated title

Provisions

Cross reference

"2. Failure to comply with the provisions of the foregoing paragraph entails legal responsibility. In the event of accidents caused by non-compliance, claims for compensation for injury to persons or for loss or damage to vessel or cargo shall be adjudicated by the International Maritime Court."

Article 40

"1. The coastal State or States may not levy charges or tolls on vessels, their cargo, crew or passengers exercising the right of passage through straits used for international navigation.

"2. Nevertheless, when a strait used for international navigation the breadth of which is less than 24 nautical miles

(a) requires dredging, the installation and maintenance of aids to navigation or the adoption of other measures to maintain or facilitate safe passage, or

(b) when passage of certain types or classes of vessels, in the event of accident, could cause considerable loss of human life or substantial injury to economic activities or to the marine environment in the area;

the coastal State or States may request the International Ocean Space Institutions to establish an equitable charge payable without discrimination by all vessels or by all vessels of the relevant class or type, as the case may be, using the strait."

"3. The charge mentioned in the foregoing paragraph shall be collected by the coastal State or States and the proceeds shall be paid into a fund administered by the International Ocean Space Institutions, the resources of which shall be employed to maintain and facilitate safe passage of the strait and to compensate the coastal State or States for any injury or damage which they might suffer from the exercise of the right of passage by foreign vessels."

Abbreviated title

Provisions

Cross reference

"4. The charge payable by vessels exercising the right of passage through straits less than 24 nautical miles in breadth shall be determined in special conventions between the International Ocean Space Institutions and the State or States concerned."

Article 41

"1. Vessels exercising the right of passage through straits shall take strict precautionary measures for the avoidance of accidents of navigation and for the prevention of damage to the marine environment or to offshore installations."

"2. Liability for damages negligently caused by a vessel exercising the right of passage shall rest with the State whose flag the vessel flies."

"3. The courts of the coastal State shall be competent to adjudicate cases involving accidents of navigation and damages to the marine environment or to installations resulting from negligence in the exercise of the right of passage."

Article 42

"1. Foreign warships passing through straits less than 24 nautical miles wide which are, or can be, used for international navigation shall:

- (a) comply with the provisions of Article 34 of this convention;
- (b) comply with such regulations as may be adopted by the coastal State under article 37 of this convention;
- (c) take strict precautionary measures for the avoidance of accidents to navigation and for the prevention of damage to the marine environment or to offshore installations."

Cross reference

Provisions

Abbreviated title

"2. Foreign warships passing through straits less than 24 nautical miles wide shall be exempt from any charges which may be levied under Article 40(2) of this convention."

(39) Italy: Straits

"(A) Subject to the provisions of paragraph (B), all ships and all aircraft shall enjoy, for purposes of transit through or over straits connecting two parts of the high seas or connecting part of the high seas with the territorial sea of a foreign State, the same freedom of navigation or overflight as exists on the high seas.

The freedom of transit shall be so exercised as to avoid all (unnecessary) obstruction of traffic. The coastal States may designate appropriate channels and corridors to be used by transit traffic passing through and over the straits."

(54) United Kingdom:
Archipelagic
States

Paragraph 7 - Text reproduced in 16 under (54)

16

(59) Poland: Straits

"The coastal State shall not place, in the straits used for international navigation, structures of any kind which could hamper or obstruct the passage of ships through such straits."

2.5

Text of paragraph (B)
reproduced in 4.1
under (39)

5 CONTINENTAL SHELF

5.1. Nature and scope of the sovereign rights of coastal States over the continental shelf. Duties of States

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(10) Santo Domingo Declaration	Continental shelf, para. 1, 2 and 4	
	"1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploiting it and its natural resources.	5.2
	"2. The continental shelf includes the sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits the exploitation of the natural resources of the said areas.	5.2
	"4 In that part of the continental shelf covered by the patrimonial sea the legal régime provided for this area shall apply. With respect to the part beyond the patrimonial sea, the régime established for the continental shelf by International Law shall apply.	
(25) Colombia, Mexico Venezuela: draft articles	Articles 13, 14, 15	
	"Article 13. The term "continental shelf" means:	5.2
	(a) The sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to the outer limits of the continental rise bordering on the ocean basin or abyssal floor;	
	(b) The sea-bed and subsoil of analogous submarine regions adjacent to the coasts of islands.	
	"Article 14. The coastal State exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources.	5.4

Abbreviated titleProvisions

6.1

"Article 15. In that part of the continental shelf covered by the patrimonial sea, the legal régime provided for the latter shall apply."

With respect to the part beyond the patrimonial sea, with régime established by international law for the continental shelf shall apply."

18

Article (C) [Construction of artificial islands on continental shelf]: Text reproduced under item 18.

(30) Belgium:
artificial islands
and installations

9.2
5.4

Article [14] [Rights and obligations of land-locked (developing) countries with regard to natural resources of continental shelf]: text reproduced under item 9.2.

(31) Bolivia: land-locked countries

(35) USSR: continental shelf

"(3) In areas where there is no continental shelf, the coastal State may have the same rights in respect of the sea-bed as in respect of the continental shelf, within the limits provided for in paragraph (2) hereof."

[(2) "In areas where the 500-metre isobath ... is situated at a distance less than 100 nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding 100 nautical miles."]

5.2

"Delete paragraph (b)" in no. (25) above

(42) Tunisia, Turkey:
amendment to
(25)

18

(43) China: Working paper
A coastal State may enact all necessary laws and regulations for the effective management of its continental shelf.

Abbreviated title

(43) China: Working
paper (continued)

(46) Argentina: draft
articles

Provisions

The delineation of the course for laying submarine cables and pipelines on the continental shelf by a foreign State is subject to the consent of the coastal State."

"15. The sovereignty of a coastal State extends to its continental shelf. The continental shelf comprises the bed and subsoil of the submarine areas adjacent to the territory of the State but outside the area of the territorial sea, up to the outer lower edge of the continental margin which adjoins the abyssal plains or, when that edge is at a distance of less than 200 miles from the coast, up to that distance.

16. The rights of the coastal State over the continental shelf do not affect the legal régime of the superjacent waters or air space.

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

18. A coastal State has sovereignty over the renewable and non-renewable natural resources of its continental shelf. The said resources include the mineral and other non-living resources of the seabed and subsoil together with living vegetable organisms and animals belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

19. The prospecting and exploration of the continental shelf and the exploitation of its natural resources are subject to the regulations of the coastal States concerned, which may reserve those activities to themselves or to their nationals or may allow third parties also to engage in them in accordance with the provisions of their internal laws and of such international agreements as they may conclude on the matter.

Cross reference

5.2

5.4

5.4

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(46) Argentina: draft articles (continued)	<p>20. The protection and conservation of renewable resources existing on the continental shelf are likewise subject to the regulations of the coastal States concerned and to such agreements as they may conclude on the matter, taking into account, where relevant, co-operation with other States and the recommendations of technical international bodies.</p> <p>21. It is also for the coastal State to enact measures designed to prevent, mitigate or eliminate pollution of or from the continental shelf and of its natural resources, taking into account co-operation with other States and the recommendations of international technical bodies."</p>	5.4
(65) Japan: delimitation of coastal sea-bed area	<p>"1. The coastal State shall have the right to establish, beyond its territorial sea, a coastal sea-bed area up to a maximum distance of ... nautical miles from the applicable baseline for measuring the breadth of the territorial sea. The coastal State exercises sovereign rights for the purpose of exploring the coastal sea-bed area and exploiting its mineral resources."</p>	5.2; 5.3

5.2 Outer limit of the continental shelf: applicable criteria

Cross reference

Abbreviated title

Provisions

(10) Santo Domingo Declaration

Continental shelf, paras. 2 and 3

"2. The continental shelf includes the sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits the exploitation of the natural resources of the said area.

5.1

"3. In addition, the States participating in this Conference consider that the Latin American Delegations in the Committee on the Sea-bed and Ocean Floor of the United Nations should promote a study concerning the advisability and timing for the establishment of precise outer limits of the continental shelf taking into account the outer limits of the continental rise."

(25) Colombia, Mexico and Venezuela: draft articles

Article 13. The term "continental shelf" means:

5.1

"(a) The sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to the outer limits of the continental rise bordering on the ocean basin or abyssal floor;

"(b) The sea-bed and subsoil of analogous submarine regions adjacent to the coasts of islands."

Abbreviated title

Provisions

- (35) USSR: continental shelf (1) The outer limit of the continental shelf may be established by the coastal State within the 500-metre isobath.
- (2) In areas where the 500-metre isobath referred to in paragraph (1) hereof is situated at a distance less than 100 nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding 100 nautical miles.
- (3) In areas where there is no continental shelf, the coastal State may have the same rights in respect of the sea-bed as in respect of the continental shelf, within the limits provided for in paragraph (2) hereof.
- (38) Greece: islands 19
- "4. The provisions applicable for the determination of the continental shelf and the zones of national jurisdiction of the continental part of the State are as a general rule applicable to islands."
- (42) Tunisia, Turkey: amendment to (25) 5.1
- "delete paragraph (b)" in (25) above.

Provisions

5.3

Abbreviated title

(43) China:
 Working paper

3. Continental shelf:

"(1) By virtue of the principle that the continental shelf is the natural prolongation of the continental territory, a coastal State may reasonably define, according to its specific geographical conditions, the limits of the continental shelf under its exclusive jurisdiction beyond its territorial sea or economic zone. The maximum limits of such continental shelf may be determined among States through consultations."

(46) Argentina:
 draft articles

5.1

"15. The sovereignty of a coastal State extends to its continental shelf. The continental shelf comprises the bed and subsoil of the submarine areas adjacent to the territory of the State but outside the area of the territorial sea, up to the outer lower edge of the continental margin which adjoins the abyssal plains or, when that edge is at a distance of less than 200 miles from the coast, up to that distance."

(54) United Kingdom:
 Archipelagic
 States

Paragraph 4 - Text reproduced in 16 under (54)

2.3.1; 6.5; 16

(65) Japan:
 delimitation of
 coastal sea-bed
 area

5.1; 5.3

"1. The coastal State shall have the right to establish, beyond its territorial sea, a coastal sea-bed area up to a maximum distance of ... nautical miles from applicable baseline for measuring the breadth of the territorial sea. The coastal State exercises sovereign rights for the purpose of exploring the coastal sea-bed area and exploiting its mineral resources."

(67) Netherlands:
 intermediate zone

Article (16) footnote - Text reproduced in 7.1 under (67).

7.1

5.3 Question of the delimitation between States; various aspects involved

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(33) Turkey: draft article	Paras. 1, 2 and 3:- "1. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the respective maritime boundaries shall be determined by agreement among them in accordance with equitable principles, taking into account all the relevant circumstances. 2. In the course of the negotiations which will be held with a view to arriving at an agreement, the States shall take into account, <u>inter alia</u> , special circumstances such as the general configuration of the respective coasts, the existence of islands or islets of another State and the physical and geological structure of the marine area involved, including the sea-bed and subsoil thereof.	2.3.1; 6.7.2
3.	The States shall make use of the methods envisaged in Article 33 of the United Nations Charter or other peaceful means and methods open to them, in order to resolve differences which may arise in the course of negotiations.	
4.	In the absence of special circumstances, due regard should be given to the principles of median line or equidistance in delimitation of respective boundaries."	

- (43) China:
Working paper
3. Continental shelf:
- "(1) By virtue of the principle that the continental shelf is the natural prolongation of the continental territory, a coastal State may reasonably define, according to its specific geographical conditions, the limits of the continental shelf under its exclusive jurisdiction beyond its territorial sea or economic zone. The maximum limits of such continental shelf may be determined among States through consultations."

Abbreviated title

Provisions

Cross reference

(43) China:
Working paper
(continued)

"(5) States adjacent or opposite to each other, the continental shelves of which connect together, shall jointly determine the delimitation of the limits of jurisdiction of the continental shelves through consultations on an equal footing."

5.4

"(6) States adjacent or opposite to each other, the continental shelves of which connect together, shall, on the basis of safeguarding and respecting the sovereignty of each other, conduct necessary consultations to work out reasonable solutions for the exploitation, regulation and other matters relating to the natural resources in their contiguous parts of the continental shelves."

(45) Australia, Norway:
Economic zone and
delimitation

2. Delimitation:

6.7.2

"A. Adjacent and opposite states shall use their best endeavours to reach agreement on the delimitation between them of their (economic zones - patrimonial seas) and their seabed areas in accordance with equitable principles.

B. Where there is an agreement between the states concerned, questions relating to the delimitation of their (economic zones - patrimonial seas) and their seabed areas shall be determined in accordance with the provisions of that agreement.

D. Subject to principles A, B and C above, and unless the drawing up of another boundary is justified by special circumstances, the boundary shall be an equidistant line in the case of adjacent coasts and a median line in the case of opposite coasts."

The text of C may
be found under
(45) in 6.5

(46) Argentina:
draft articles

"28. Delimitation.

29. Safeguard of existing international, bilateral or regional agreements on delimitation of the continental-shelf."

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(62) Romania: régime of islands	Paragraph 1 - Text reproduced in 19 (b) under (62)	19 (b)
(65) Japan: delimitation of coastal sea-bed area	<p>"2. In cases where the coasts of two or more coastal States are adjacent or opposite to each other, the boundary of the coastal sea-bed areas appertaining to such States shall be determined by agreement in accordance with the principle of equidistance.</p> <p>3. Nothing herein shall prejudice the existing agreements between the coastal States concerned relating to the delimitation of their respective coastal sea-bed areas."</p>	5.1; 5.2

5.4 Natural resources of the continental shelf

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé Conclusions	Part III (1): "(1) The Economic Zone embodies all economic resources comprising both living and non-living resources such as oil, natural gas and other mineral resources."	6.1; 6.2
(25) Colombia, Mexico and Venezuela: draft articles	Continental shelf, article 14: "The coastal State exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources."	5.1
(43) China: Working paper	(2) "The natural resources of the continental shelf, including the mineral resources of the sea-bed and subsoil and the living resources of sedentary species, appertain to the coastal State." (6) "States adjacent or opposite to each other, the continental shelves of which connect together, shall, on the basis of safeguarding and respecting the sovereignty of each other, conduct necessary consultations to work out reasonable solutions for the exploitation, regulation and other matters relating to the natural resources in their contiguous parts of the continental shelves."	
(46) Argentina: draft articles	"18. A coastal State has sovereignty over the renewable and non-renewable natural resources of its continental shelf. The said resources include the mineral and other non-living resources of the sea-bed and subsoil together with living vegetable organisms and animals belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil."	5.1

Cross reference

Provisions

Abbreviated title

(46) Argentina:
draft articles
(continued)

19. The prospecting and exploration of the continental shelf and the exploitation of its natural resources are subject to the regulations of the coastal States concerned, which may reserve those activities to themselves or to their nationals or may allow third parties also to engage in them in accordance with the provisions of their internal laws and of such international agreements as they may conclude on the matter.

20. The protection and conservation of renewable resources existing on the continental shelf are likewise subject to the regulations of the coastal States concerned and to such agreements as they may conclude on the matter, taking into account, where relevant, co-operation with other States and the recommendations of technical international bodies.

21. It is also for the coastal State to enact measures designed to prevent, mitigate or eliminate pollution of or from the continental shelf and of its natural resources, taking into account co-operation with other States and the recommendations of international technical bodies."

5.1

5.1

5.1

5.5 Régime for waters superjacent to the continental shelf

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(43) China: Working paper	<p>3. <u>Continental shelf:</u></p> <p>"(3) The superjacent waters of the continental shelf beyond the territorial sea, the economic zone or the fishery zone are not subject to the jurisdiction of the coastal State.</p> <p>The normal navigation and overflight on the superjacent waters of the continental shelf and in the airspace thereabove by ships and aircraft of all States shall not be prejudiced."</p>	
(46) Argentina: draft articles	<p>"27. The exercise of the coastal State's rights over the continental shelf shall not result in any unjustifiable interference with the freedom of navigation in the superjacent waters and of overflight in the superjacent air space, nor shall it impede the use of recognized lanes essential to international navigation."</p>	

5.6. Scientific research

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(46) Argentina: draft articles	"22. It is likewise for the coastal State to authorize scientific research activities on the continental shelf; it is entitled to participate in them and to be informed of the results thereof. In such regulations as the coastal State may issue on the matter, the desirability of promoting and facilitating such activities shall be taken especially into account."	

6. EXCLUSIVE ECONOMIC ZONE BEYOND THE TERRITORIAL SEA

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(64) Jamaica: regional facilities	<u>"Article 1</u>	2.3.2; 5; 7; 10; 15

1. In any region where there are geographically disadvantaged coastal States, the nationals of such States shall have the right to exploit, on a reciprocal and preferential basis, the renewable resources within maritime zones beyond 12 miles from the coasts of the States of the region for the purpose of fostering the economic development of their fishing industry and satisfying the nutritional needs of the population.

2. The procedures regulating the preferential régime referred to in paragraph 1 above shall be determined by regional, subregional and bilateral agreements.

Article 2

Where by reason of the geography of a region or subregion the maritime zones beyond 12 miles from the coasts of States bordering on that region or subregion converge into each other and within the zone of convergence there are geographically disadvantaged coastal States, the nationals of such States shall have a right of equal access, to the living resources of the maritime zones in these convergent areas.

Article 3

Except as provided in Article 4 nothing in Articles 1 and 2 shall apply to territories under foreign domination or forming an integral part of metropolitan powers outside the region.

Abbreviated title

Provisions

(64) Jamaica: regional
facilities
(continued)

"Article 4

In the application of Articles 1 and 2 to the Associated States, Self-Governing Territories and territories under foreign domination the rights thereby conferred shall be so applied as only to confer rights on the inhabitants of such territories for the purpose of their domestic needs.

"Article 5

For the purposes of these Articles

(a) 'geographically disadvantaged coastal States' means developing States which for geographical, biological or ecological reasons --

(i) derive no substantial advantage from the extension of their maritime jurisdiction; or

(ii) are adversely affected by the extension of maritime jurisdiction of other States; or

(iii) have short coastlines and cannot extend uniformly their national jurisdiction.

(b) 'nationals' include enterprises substantially owned and effectively controlled by nationals."

6.1. Nature and characteristics, including rights and jurisdiction of coastal States in relation to resources, pollution control and scientific research in the zone. Duties of States

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé conclusions Part I (a) (3)	<p>"(3) The African States have equally <u>the right</u> to establish beyond the Territorial Sea an Economic Zone over which they will have an <u>exclusive jurisdiction</u> for the purpose of control regulation and <u>national exploitation</u> of the living resources of the Sea and their reservation for the primary benefit of their peoples and their respective economies, and for the purpose of the prevention and control of pollution."</p> <p>Part II</p> <p>"Recommend to African States to extend their sovereignty over all the resources of the high sea adjacent to their Territorial Sea within an economic zone to be established and which will include at least the continental shelf."</p> <p>Part III</p> <p>"(1) The Economic Zone embodies all <u>economic resources</u> comprising both living and non-living resources such as oil, natural gas and other mineral resources."</p>	6.2; 6.8
(10) Santo Domingo Declaration	<p>Patrimonial sea, para. 1</p> <p>"1. The coastal State has <u>sovereign rights</u> over the renewable and non-renewable natural resources, which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea."</p>	6.7.3, 6.8.1

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(25) Colombia, Mexico and Venezuela: draft articles	Articles 4, 11.1 and 15. "Article 4. The coastal State has <u>sovereign rights over the renewable and non-renewable resources which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea.</u> "	6.7.3
	"Article 11. 1. The coastal State shall <u>exercise jurisdiction and supervision over the exploration and exploitation of the renewable and non-renewable resources of the patrimonial sea and over allied activities.</u> "	6.6.1, 6.7.3
	"Article 15. In that part of the continental shelf covered by the patrimonial sea, the legal régime provided for the latter shall apply. With respect to the part beyond the patrimonial sea, the régime established by international law for the continental shelf shall apply."	5.1
(27) ICELAND - area adjacent to territorial sea	"A coastal State may determine the extent of its exclusive jurisdiction and control over the natural resources of the maritime area adjacent to its territorial sea. The outer limits of this area shall be reasonable, keeping in view the geographical, geological, ecological, economic and other relevant local considerations and shall not exceed 200 nautical miles."	6.5
(28) OAU Declaration	Part C, paras. 7. 8 and 14 "7. That in such zones the coastal States shall exercise permanent sovereignty over all the living and mineral resources and shall manage the Zone <u>without undue interference with the other legitimate uses of the sea: namely, freedom of navigation, overflight and laying of cables and pipelines.</u> "	6.2, 6.3

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
	"8. That the African countries consider that scientific research and the control of marine pollution in the Economic Zone shall be <u>subject to the jurisdiction of the coastal States</u> ;	6.8, 6.9
	Text of paragraph 14 reproduced in 6.9	6.9
(36) Ecuador, Panama and Peru: draft articles	Section IV - Natural resources régime "Article 7: The prospecting and exploration of the adjacent sea, as well as the exploitation of its non-renewable resources, shall be subject to the regulations of the coastal State, which may reserve the aforesaid activities for itself or its nationals, or permit them to be carried out by third parties in accordance with the provisions of its internal legislation and of any relevant international agreements it may conclude."	2.1
(43) China: Working paper	2. Exclusive economic zone or exclusive fisheries zone (2), (5) - (7): "(2) All natural resources within the economic zone of a coastal State, including living and non-living resources of the whole water column, seabed and its subsoil, are owned by the coastal State." "A coastal State exercises exclusive jurisdiction over its economic zone for the purpose of protecting, using, exploring and exploiting the resources as described in the preceding paragraph."	

Abbreviated title

Provisions

Cross reference

"(5) Other States may engage in fishery, mining or other activities in the economic zone of a coastal State pursuant to agreement reached with the coastal State.

(6) A coastal State may enact necessary laws and regulations for the effective regulation of its economic zone.

Other States, in carrying out any activities in the economic zone of a coastal State, are required to observe the relevant laws and regulations of the coastal State.

(7) A coastal State is entitled, when necessary, to deal with unauthorized fishery, mining or other activities in its economic zone and with violations of its relevant laws and regulations even though permission for such activities has been given."

(44) USA: Coastal
sea-bed economic
area

Articles 1 (paragraphs 1 and 3) and 2 - 3:

ARTICLE 1

"1. The coastal State shall have the exclusive right to explore and exploit and authorize the exploration and exploitation of the natural resources of the seabed and subsoil in accordance with its own laws and regulations in the Coastal Seabed Economic Area."

"3. The coastal State shall in addition have the exclusive right to authorize and regulate in the Coastal Seabed Economic Area or the superjacent waters:

(a) the construction, operation and use of offshore installations affecting its economic interests, and

(b) drilling for purposes other than exploration and exploitation of resources."

6.2

18

Abbreviated title

Provisions

Cross reference

ARTICLE 2

"The coastal State, in exercising the rights referred to in Article 1, shall ensure that its laws and regulations, and any other actions it takes pursuant thereto in the Coastal Seabed Economic Area, are in strict conformity with the provisions of this Chapter and other applicable provisions of this Convention, and in particular: ...

6.3, 6.8

(a) the coastal State shall ensure that there is no unjustifiable interference with other activities in the marine environment, and shall ensure compliance with international standards in existence or promulgated by the Authority or the Inter-Governmental Maritime Consultative Organization, as appropriate, to prevent such interference;

(b) the coastal State shall take appropriate measures to prevent pollution of the marine environment from the activities set forth in Article 1 and shall ensure compliance with international standards in existence or promulgated by the Authority or the Inter-Governmental Maritime Consultative Organization, as appropriate, to prevent such pollution;

(c) the coastal State shall not impede, and shall co-operate with the Authority in the exercise of its inspection functions in connexion with sub-paragraph (b) above;

(d) the coastal State shall ensure that licenses, leases or other contractual arrangements which it enters into with the agencies or instrumentalities of other States, or with natural or juridical persons which are not nationals of the coastal State, for the purpose of exploring for or exploiting seabed resources are strictly observed according to their terms. Property of such agencies, instrumentalities or persons shall not be taken except for a public purpose, on a non-discriminatory basis, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall

Cross reference

Provisions

Abbreviated title

represent the full equivalent of the property taken and adequate provision shall have been made at or prior to the time of the taking to ensure compliance with the provisions of this paragraph;

(e) the coastal State shall make available in accordance with the provisions of Article _____, such share of revenues in respect of mineral resource exploitation from such part of the Coastal Seabed Economic Area as is specified in that Article."

ARTICLE 3

1. All activities in the marine environment shall be conducted with reasonable regard to the rights of the coastal State referred to in Article 1. 6.3; 18

2. States shall ensure compliance with international standards in existence or to be promulgated by Inter-Governmental Maritime Consultative Organization in consultation with the Authority:

(a) regarding the breadth, if any, of safety zones around offshore installations;

(b) regarding navigation outside the safety zones, but in the vicinity of offshore installations."

(45) Australia and
Norway: Economic
zone and
delimitation

1. Economic zone, paras. A. and B.

"A. The coastal State has the right to establish, beyond its territorial sea, in accordance with these principles, an (economic zone - patrimonial sea) in which it shall have sovereign rights over the natural resources for the primary benefit of its people and its economy. 6.2

B. The natural resources of the (economic zone - patrimonial sea) comprise the renewable and non-renewable natural resources of the waters, the seabed and the subsoil thereof."

Abbreviated title

(46) Argentina: Draft
articles

Provisions

Paras. 4 and 7:

"4. A coastal State has sovereign rights over an area of sea adjacent to its territorial sea up to a distance of 200 nautical miles measured from the baseline from which the breadth of the territorial sea is measured or up to a greater distance coincident with the epicontinental sea.

For the purposes of this and the succeeding articles, the term "epicontinental sea" means the column of water covering the seabed and subsoil which are situated at an average depth of 200 metres.

The scope of the above-mentioned rights is laid down in the succeeding articles."

"7. A coastal State has sovereign rights over the renewable and non-renewable natural resources, living and non-living, which are to be found in the said area."

(47) Canada, India, Kenya,
Senegal, Sri Lanka:
fisheries

Article 3:

6.6.1

ARTICLE 3

"Each coastal State shall notify to the Authority designated for the purpose by the Conference on the Law of the Sea the limits of the exclusive fishery zone defined by co-ordinates of latitude and longitude or by any other internationally recognized method and marked on large scale charts officially recognized by that State."

(49) Fourteen-power:
draft articles on
exclusive economic
zone

Articles II, V, VII and XI

ARTICLE II

Article I in 6.5,
6.6.1, 6.7, 6.7.3,
6.8

"In accordance with the foregoing Article, all States have the right to establish an Economic Zone beyond the territorial sea for the benefit of their peoples and their respective economies in

Abbreviated title

Provisions

Cross reference

which they shall have sovereignty over the renewable and non-renewable natural resources for the purpose of exploration and exploitation. Within the zone they shall have exclusive jurisdiction for the purpose of control, regulation and exploitation of both living and non-living resources of the Zone and their preservation, and for the purpose of prevention and control of pollution.

The rights exercised over the Economic Zone shall be exclusive and no other State shall explore and exploit the resources therein without obtaining permission from the coastal State on such terms as may be laid down in conformity with the laws and regulations of the coastal State.

The coastal State shall exercise jurisdiction over its Economic Zone and third States or their nationals shall bear responsibility for damage resulting from their activities within the Zone."

ARTICLE V

"Each State shall ensure that any exploration or exploitation activity within its Economic Zone is carried out exclusively for peaceful purposes and in such a manner as not to interfere unduly with the legitimate interests of other States in the region or those of the International Community."

2.2

ARTICLE VII

"Without prejudice to the general jurisdictional competence conferred upon the coastal State by Article II above, the State may establish special regulations within its Economic Zone for:

6.6.3, 6.8, 6.9

- (a) Exclusive exploration and exploitation of renewable resources;
- (b) Protection and conservation of the renewable resources;

Cross reference

Provisions

Abbreviated title

- (c) Control, prevention and elimination of pollution of the marine environment;
- (d) Scientific research."

ARTICLE XI

"No State exercising foreign domination and control over a territory shall be entitled to establish an Economic Zone or to enjoy any other right or privilege referred to in these articles with respect to such territory."

(67) Netherlands:
intermediate
zone

Article (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67)

7.1; 7.2; 7.3;
7.5; 9.2; 9.4;
10.2; 10.3; 15

6.2 Resources of the zone

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé: Conclusions	Part I (a) (3) first sentence and (4)	
	"(3) The African States have equally the right to establish beyond the Territorial Sea an Economic Zone over which they will have an exclusive jurisdiction for the purpose of control regulation and national exploitation of the living resources of the Sea and their reservation for the primary benefit of their peoples and their respective economies, and for the purpose of the prevention and control of pollution."	6.1; 6.8
	"(4) The exploitation of the living resources within the economic zone should be open to all African States both land-locked and near land-locked, provided that the enterprises of these States desiring to exploit these resources are effectively controlled by African capital and personnel."	9.2; 9.4
	Part II:	
	"Recommend to African States to extend their sovereignty over all the resources of the high sea adjacent to their Territorial Sea within an economic zone to be established and which will include at least the continental shelf."	6.1; 6.6; 6.8
	Part III:	
	"(1) The Economic Zone embodies all economic resources comprising both living and non-living resources such as oil, natural gas and other mineral resources."	5.4; 6.1

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(28) OAU Declaration	Para. 7 "7. That in such zones the coastal States shall exercise permanent sovereignty over all the living and mineral resources and shall manage the Zone without undue interference with the other legitimate uses of the sea: namely, freedom of navigation, overflight and laying of cables and pipelines."	
(36) Ecuador, Panama and Peru: draft articles	Section IV, Article 6 "Article 6 The renewable and non-renewable resources of the sea, and of its bed and subsoil, within the limits referred to in article 1 shall be subject to the sovereignty and jurisdiction of the coastal State."	2.1
(37) Malta: Coastal State Jurisdiction	Article 80 "Article 80 1. The exploration and exploitation of the natural resources of national ocean space shall be conducted with reasonable regard to other uses of national ocean space, in particular with navigation, scientific research and the laying and repair of submarine cables and pipelines. 2. The coastal State shall have the obligation to transfer to the International Ocean Space Institutions a portion of the financial benefits received from the exploitation of the natural resources of national ocean space. The Institutions shall prepare a special draft convention on this matter for consideration by Contracting Parties."	

6.2 Resources of the zone (continued)

Cross reference

Abbreviated title

Provisions

(A4) USA: coastal seabed
economic area

Articles 1 and 2 (sub-paras. (d) and (e))

"Article 1 1. The coastal State shall have the exclusive right to explore and exploit and authorize the exploration and exploitation of the natural resources of the seabed and subsoil in accordance with its own laws and regulations in the Coastal Seabed Economic Area."

6.1

"Article 2 The coastal State, in exercising the rights referred to in Article 1, shall ensure that its laws and regulations, and any other actions it takes pursuant thereto in the Coastal Seabed Economic Area, are in strict conformity with the provisions of this Chapter and other applicable provisions of this Convention, and in particular:

(d) the coastal State shall ensure that licenses, leases, or other contractual arrangements which it enters into with the agencies or instrumentalities of other States, or with natural or juridical persons which are not nationals of the coastal State, for the purpose of exploring for or exploiting seabed resources are strictly observed according to their terms. Property of such agencies, instrumentalities or persons shall not be taken except for a public purpose, on a non-discriminatory basis, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken and adequate provision shall have been made at or prior to the time of the taking to ensure compliance with the provisions of this paragraph:

6.1

(e) the coastal State shall make available in accordance with the provisions of Article , such share of revenues in respect of mineral resource exploitation from such part of the Coastal Seabed Economic Area as is specified in that Article."

6.1

6.2 Resources of the zone

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(45) Australia and Norway: economic zone and delimitation	1. Economic Zone, para. B. "B. The natural resources of the (economic zone - patrimonial sea) comprise the renewable and non-renewable natural resources of the waters, the seabed and the subsoil thereof."	6.1
(49) Fourteen-power: draft articles on exclusion economic zone	Article VI "Article VI 1. The exercise of sovereignty over the resources and jurisdiction over the zone shall encompass all the economic resources of the area, living and non-living, either on the water surface or within the water column, or on the soil or sub-soil of the sea-bed and ocean floor below."	

6.3 Freedom of navigation and overflight

Cross reference

Abbreviated title

Provisions

(8)	Yaoundé conclusions	<p>Part I (a) (3) second sentence:</p> <p>"The establishment of such a [Economic] zone shall be without prejudice to the following freedoms: Freedom of navigation, freedom of overflight, freedom to lay submarine cables and pipelines."</p>	
(10)	Santo Domingo Declaration	<p>Patrimonial sea, para. 5:</p> <p>"5. In this zone ships and aircraft of all States, whether coastal or not, should enjoy the right of freedom of navigation and overflight with no restrictions other than those resulting from the exercise by the Coastal State of its rights within the area. Subject only to these limitations, there will also be freedom for the laying of submarine cables and pipelines."</p>	18
(25)	Colombia, Mexico and Venezuela: draft articles	<p>"Article 9. In the patrimonial sea, ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight with no restrictions other than those resulting from] the exercise by the coastal State of its rights within the area."</p>	18
(28)	OAU Declaration	<p>"Article 10. Subject only to the limitations established in the preceding article, the coastal State shall respect the freedom to lay submarine cables and pipelines."</p> <p>Part C, paragraph 7:</p> <p>"7. That in such zones the coastal States shall exercise permanent sovereignty over all the living and mineral resources and shall manage the Zone without undue interference with the other legitimate uses of the sea: namely, freedom of navigation, overflight and laying of cables and pipelines."</p>	18

Cross reference

Provisions

Abbreviated title

(37) Malta: coastal
State jurisdiction

Articles 5, 20-35, 43-52:

Article 5

6.5

"1. Waters on the landward side of the baseline of national ocean space form part of the internal waters of a State. (12)

"2. Where the establishment of a straight baseline in accordance with article 4 or in accordance with the 1958 Geneva Convention on the Territorial Sea has, or has had, the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of passage as defined in the present Convention shall exist in those waters. 13/

Article 20

"1. Subject to the provisions of these articles, vessels of all States, whether coastal or not, shall enjoy the right of passage through national ocean space.

"2. Passage means navigation through national ocean space for the purpose either of traversing it without entering internal waters or of proceeding to internal waters or of making for International Ocean Space from internal waters.

"3. Passage includes stopping and anchoring in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress. 23/

13/ See for analogy Article 5 (2), 1958 Territorial Sea Convention.

23/ See Article 14 (1), (2), (3), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

Article 21

"The coastal State must not hamper in any way the exercise of the right of passage through its national ocean space when such passage conforms with such general and non-discriminatory standards and rules for the regulation of navigation as may be adopted by the International Ocean Space Institutions or as are contained in widely ratified multilateral conventions. 24/

Article 22

"In the absence of relevant standards and rules adopted by the International Ocean Space Institutions or contained in widely ratified multilateral conventions, the coastal State may enact reasonable non-discriminatory regulations with regard to navigation in national ocean space and in particular with regard to maritime safety and traffic, maritime transport and the prevention of pollution.

Article 23

"1. Foreign vessels exercising the right of passage shall comply (a) with the rules and regulations concerning navigation adopted by the International Ocean Space Institutions or enacted by the coastal State or contained in widely ratified multilateral conventions; (b) with the customs, fiscal, immigration or sanitary regulations of the coastal State to which due publicity has been given through the International Ocean Space Institutions. 25/

2. Foreign fishing and fish processing vessels exercising the right of passage shall observe such laws and regulations as the coastal State may make and publish through the International Ocean Space Institutions in order to prevent these vessels from fishing or processing fish in national ocean space. 26/

24/ See Article 15 (1), 1958 Territorial Sea Convention.

25/ See for Analogy, Article 17 and Article 24 (1), 1958 Territorial Sea Convention.

26/ See for Analogy, Article 14 (5), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

Article 24

"The coastal State may require any foreign vessel which does not comply with the provisions concerning the exercise of the right of passage contained in the foregoing articles to leave national ocean space."

Article 25

"1. Coastal State regulations mentioned in the foregoing articles may be brought to the attention of the International Ocean Space Institutions by any Contracting Party when these regulations are considered discriminatory or an unreasonable impediment to navigation or contrary to general international practice or inconsistent with standards and rules adopted by the Institutions or contained in widely ratified multilateral Conventions.

"2. The International Ocean Space Institutions may recommend that the coastal State rescind or modify such regulations as are found to be discriminatory or an unreasonable impediment to navigation or contrary to general international practice or inconsistent with standards and rules adopted by the Institutions or contained in widely ratified multilateral conventions.

"3. In the event of continued disagreement between the International Ocean Space Institutions and the coastal State the matter shall be submitted to the International Maritime Court for binding adjudication."

Article 26

"1. The coastal State is required to give appropriate and immediate publicity through the International Ocean Space Institutions to any dangers or obstacles to navigation of which it has knowledge within its national ocean space. 27/

27/ See Article 15 (2), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

"2. The coastal State is required within its national ocean space to take effective measures, conforming to international standards and practice, for the safety of navigation, including the installation of appropriate aids to navigation, for assistance to vessels in distress and for the rescue of human life. Such measures and the facilities available shall be notified to the International Ocean Space Institutions. 28/

"3. Failure to comply with the provisions of the foregoing paragraphs of this article entails legal responsibility. In the event of loss of life or of property caused by non-compliance, claims for compensation shall be adjudicated by the International Maritime Court."

Article 27

"1. No charge may be levied upon foreign vessels by reason only of their passage through national ocean space.

"2. The coastal State may levy charges upon a foreign vessel passing through national ocean space as payment only for specific services rendered to the vessel. These charges shall be reasonable and shall be levied without discrimination. 29/

"3. Disputes on the reasonableness or otherwise of the charges mentioned in the foregoing paragraph shall be adjudicated by the International Maritime Court."

28/ See for analogy Article 12 (2), 1958 High Seas Convention.

29/ See article 18, 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

Article 28

"1. The criminal jurisdiction of the coastal State shall not be exercised on board a foreign vessel passing through national ocean space in connexion with any crime committed on board the vessel during its passage save only in the following cases:

- (a) If the consequences of the crime extend to the coastal State; or
- (b) If the crime is of a nature gravely to disturb the peace of the country or the good order of ocean space under its jurisdiction; or
- (c) If the assistance of the local authorities has been requested by the captain of the vessel or by the consul of the country whose flag the vessel flies; or
- (d) If it is essential for the suppression of the slave trade, piracy or the illicit traffic in narcotic drugs.

"2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign vessel traversing national ocean space after leaving internal waters.

"3. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation. 30/

30/ See Article 19 (1) (2)-(4), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

"4. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall act on probable cause only and shall advise also the consular authority of the flag State and, if the captain so requests, shall advise also the International Ocean Space Institutions before taking any steps. The authorities of the coastal State shall facilitate contact between the consular authority of the flag State or the International Ocean Space Institutions and the vessel's crew. In cases of emergency the notification may be communicated while the measures are being taken. 31/

"5. In the event that action taken under the provisions of paragraphs 1 and 2 proves to have been unfounded, the vessel, the crew and passengers and the State whose flag the vessel flies shall be compensated for any loss or damage that may have been sustained.

"6. Non-compliance with the obligations under paragraph 4 of this article may be brought to the attention of the International Ocean Space Institutions by the State whose flag the vessel flies.

"7. Disputes with regard to the compliance or otherwise with the provisions of the foregoing paragraphs may be submitted to the International Maritime Court for binding adjudication on the initiative either of the flag State or of the coastal State.

Article 29

"1. The coastal State may not take any steps on board a foreign vessel passing through national ocean space to arrest any person or to conduct any investigation in connexion with any crime committed before the vessel entered ocean space subject to its jurisdiction, if the vessel, proceeding from a foreign port, is only passing through national ocean space without entering internal waters. 32/

31/ See for analogy Article 19 (3), 1958 Territorial Sea Convention.

32/ See Article 19 (5), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

"2. Non-compliance with the obligations under paragraph 1 of this article may be brought to the attention of the appropriate organs of the International Ocean Space Institutions and shall entail legal responsibility unless the action was taken at the request of the captain of the vessel of or of the State whose flag the vessel was flying.

Article 30

"1. The coastal State may not stop or divert a foreign vessel passing through national ocean space for the purpose of exercising civil jurisdiction in relation to a person on board the vessel.

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

"3. The provisions of the previous paragraph are without prejudice to the right of the coastal State in accordance with its laws, to levy execution against or to arrest for the purpose of any civil proceedings, a foreign vessel lying in waters under its jurisdiction or passing through these waters after leaving internal waters." ~~33/~~

Article 31

"1. The rules contained in the foregoing articles shall also apply to Government vessels operated for commercial purposes.

"2. The rules contained in the foregoing articles shall also apply to Government vessels operated for non-commercial purposes with the exception of Articles 28, 29 and 30.

~~33/~~ Article 20, 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

"3. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which Government vessels operated for non-commercial purposes enjoy under these articles or other rules of international law. 34/

Article 32

"In a belt of ocean space adjacent to its coast, not exceeding twelve nautical miles in breadth measured from the applicable baselines the coastal State in addition to the measures contemplated in the foregoing articles, may:

2.4

- (a) establish compulsory traffic separation schemes, designate safe sea-lanes and establish draft limits for navigation in certain areas;
- (b) require that passage be continuous and expeditious;
- (c) take such measures as may be necessary to bring to the surface of the sea an unknown submersible found lurking in the sea or resting on the sea-bed.
- (d) prevent passage which it deems to be seriously prejudicial to its peace, good order or security;
- (e) subject to the provisions of articles 36 and 37, suspend temporarily in specified areas the passage of foreign vessels if such suspension is essential for the protection of its security;
- (f) subject to the provisions of articles 36 and 37, establish precisely delimited zones closed to foreign warships for reasons of national security.
- (g) In the case of vessels proceeding to internal waters, take the necessary steps to prevent any breach of the conditions to which admission of those vessels to those waters is subject. 35/

34/ Articles 21 and 22, 1958 Territorial Sea Convention.

35/ See Article 16 (1) (2) (3), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

Article 33

2.4

"1. Measures taken by the coastal State under sub-paragraphs (a), (b), (d), (e) and (f) of the foregoing article shall be non-discriminatory and shall not take effect unless notified to the International Ocean Space Institutions and duly published.

"2. The International Ocean Space Institutions may recommend that the coastal State rescind or modify measures found to be discriminatory or to constitute an unreasonable impediment to navigation. In the event of continued disagreement between the International Ocean Space Institutions and the coastal State the matter shall be submitted to the International Maritime Court for binding adjudication."

Article 34

2.4

"Foreign warships exercising the right of passage within a belt of ocean space adjacent to the coast of a State not exceeding twelve nautical miles in the breadth measured from the applicable baseline shall not fly their aircraft, practise their weapons, engage in research or intelligence gathering operations or in activities deemed unfriendly by the coastal State nor shall they exercise the right of passage in such a manner as to impede the navigation of other vessels."

Article 35

2.4

"1. The coastal State may require a foreign warship, which does not comply with the provisions of the foregoing article and disregards any request for compliance to leave national ocean space: 36/

"2. Grave or repeated violations of the provisions of these articles and of Article 42 relating to the exercise of the right of passage by warships may be brought to the attention of the International Ocean Space Institutions by the coastal State."

36/ See for analogy, Article 16 (4), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

Article 43

"1. Subject to the provisions of these articles, aircraft of all States, whether coastal or not, shall enjoy the right of overflight over national ocean space.

Overflight means the right to fly aircraft over national ocean space for the purpose of traversing it or of landing on vessels passing through national ocean space. Overflight includes landing in national ocean space and low altitude circling and manoeuvring in so far as the same are incidental to aerial navigation or are rendered necessary by force majeure or by distress."

Article 44

"The coastal State must not hamper in any way overflight over its national ocean space when such overflight conforms with such regulations of a general and non-discriminatory character as may be adopted by the competent international institutions or as are contained in widely ratified international conventions."

Article 45

"In the absence of relevant regulations adopted by the competent international institutions or contained in widely ratified international conventions, the coastal State may enact reasonable and non-discriminatory regulations concerning the conduct of aerial navigation over its national ocean space."

Article 46

"Foreign aircraft exercising the right of overflight shall comply with regulations concerning aerial navigation adopted by the competent international institutions or contained in widely ratified multilateral conventions or enacted by the coastal State as the case may be.

Abbreviated title

Provisions

Cross reference

Article 47

"In exercising the right of overflight foreign aircraft shall not engage in activities which adversely affect the security of the coastal State or in manoeuvres which might endanger shipping or installations in national ocean space."

Article 48

"The coastal State may require any foreign aircraft which does not comply with the provisions of the foregoing articles to leave the airspace above national ocean space."

Article 49

"1. The coastal State is required to take effective measures conforming to international standards and practice for the safety of aerial navigation over its national ocean space.

"2. Failure to comply with the provisions of the foregoing paragraph entails legal responsibility."

Article 50

"1. In a belt of ocean space adjacent to its coast not exceeding twelve nautical miles in breadth measured from the applicable baseline, the coastal State, in addition to the measures contemplated in the foregoing article, may:

- (a) require three days advance notice of overflight by foreign military aircraft;
- (b) require that overflight be continuous and expeditious;
- (c) prevent overflight which it deems to be seriously prejudicial to its peace, good order or security;

Abbreviated title

Provisions

Cross reference

(d) without discrimination among foreign aircraft, suspend temporarily the exercise of the right of overflight by foreign aircraft over specified areas if such suspension is essential for the protection of its security.

2. The coastal State or States may take measures to prevent or suspend overflight over straits less than 24 nautical miles wide which are, or can be, used for international navigation only in case of reasonable fear of grave and imminent threat to its or their security. Measures taken by the coastal State or States shall be notified immediately to the competent international institutions and shall lapse after thirty days unless the consent of the institutions to such measures is obtained.

Article 51

"1. Foreign military aircraft exercising the right of overflight over a belt of national ocean space not exceeding twelve nautical miles in breadth measured from the applicable baseline shall not practise their weapons, engage in intimidating manoeuvres, in research or intelligence gathering operations or in activities deemed unfriendly by the coastal State nor shall they exercise the right of overflight in such a manner as to hamper or endanger transit of commercial aircraft.

"2. The coastal State may require a foreign military aircraft, which does not comply with the provisions of the foregoing paragraph, immediately to leave the airspace over which it has jurisdiction.

Article 52

"1. The coastal State may establish over a belt of national ocean space adjacent to its coast not exceeding 100 nautical miles in breadth precisely delimited zones of airspace closed to foreign military aircraft for reasons of national security. Such zones shall be established with due regard to the normal exercise of the

Abbreviated title

Provisions

Cross reference

right of overflight. Measures establishing aerial zones closed to foreign military aircraft shall not take effect unless notified to the competent international institutions and duly published.

"2. Subject to the provisions contained in article 50 (2), nothing in the foregoing paragraph shall affect the exercise of the right of overflight over straits which are or can be used for international navigation."

(43) China: working paper

2. Exclusive economic zone as exclusive fishery zone, para. (4):

"(4) The normal navigation and overflight on the water surface of and in the airspace above the economic zone by ships and aircraft of all States shall not be prejudiced. The delineation of the course for laying cables and pipelines in the seabed of the economic zone is subject to the consent of the coastal State."

(44) USA: coastal seabed economic area

Articles 3, paragraphs 2 and 2(b), and 4:
Article 3, paragraphs 2 and 2(b):

"2. States shall ensure compliance with international standards in existence or to be promulgated by Inter-Governmental Maritime Consultative Organization in consultation with the Authority: ..."

"(b) regarding navigation outside the safety zones, but in the vicinity of offshore installations."

Article 4:

"ARTICLE 4*"

"Nothing in this Chapter shall affect the rights of freedom of navigation and overflight and other rights to carry on activities

"*/ It is assumed that the general articles of the Law of the Sea Convention will contain an article such as Article 4 applicable to all areas beyond the territorial sea. Such an article would obviate the need for several articles making the same point here and in other chapters of the Convention."

Cross reference

Provisions

unrelated to seabed resource exploration and exploitation in accordance with general principles of international law, except as otherwise specifically provided in this Convention."

(45) Australia and Norway: Economic zone and delimitation	1. Economic zone, paragraph D: "D. In the (economic zone - patrimonial sea) ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight."	
(46) Argentina: draft articles	Paragraph 13: "13. In the maritime area adjacent to the territorial sea, ships and aircraft of all States, whether coastal or not, have the right to free navigation and overflight without restrictions other than those which may result from the exercise by the coastal State of its rights in the matters of exploration, conservation and exploitation of resources, pollution and scientific research. Subject solely to these limitations, there shall also be freedom to lay submarine cables and pipelines."	18
(49) Fourteen-power: draft articles on exclusive economic zone	Article IV "In the Economic Zone, ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight and to lay submarine cables and pipelines with no restrictions other than those resulting from the exercise by the coastal State within the area."	18
(50) Uganda and Zambia: Economic zone.	Article 4: "1. Beyond the uniform limits of the territorial seas of coastal States, there shall be established economic zones, the outer limit of which shall be a line every point of which shall not exceed _____ nautical miles measured from the baselines, known as Regional or Sub-regional economic zones."	6.5

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
	"2. Fisheries within the Regional or Sub-regional economic zones shall be reserved for the exclusive use, exploration and exploitation by all the States within the relevant Region or Sub-region.	6.4; 6.6
	"3. Relevant Regional or Sub-regional authorities shall have the exclusive right to explore, exploit and manage the non-living resources of the Regional or Sub-regional economic zones on behalf of all States in the Region or Sub-region.	6.4; 6.7.3
	"4. The regulation and supervision of activities within such Regional or Sub-regional Economic Zones shall be the responsibility of the relevant Regional or Sub-regional commissions.	6.4
	"5. The provisions of the preceding paragraphs of this Article shall not affect the freedoms of navigation, overflight, and the laying of submarine cables and pipelines referred to in Article _____ which shall be applicable in the Regional or Sub-regional zones."	6.3; 18

6.4 Regional arrangements

Provisions

Cross reference

(8) Yaoundé conclusions

Part I (a) (4):

"The exploitation of the living resources within the economic zone should be open to all African States both land-locked and near land-locked, provided that the enterprises of these States desiring to exploit these resources are effectively controlled by African capital and personnel.

To be effective, the rights of land-locked States shall be complemented by the right of transit.

These rights shall be embodied in multilateral or regional or bilateral agreements."

(28) OAU Declaration

Part D, para. 11:

"That the African States in order to develop and manage the resources of the region take all possible measures including co-operation in the conservation and management of the living resources and the prevention and control of pollution to conserve the marine environment, establish such regional institutions as may be necessary and settle disputes between institutions as may be necessary and settle disputes between them in accordance with regional arrangements."

15

(36) Ecuador, Panama and
Peru, draft articles

Articles 13 and 14

15

Section VIII - Regional and subregional régimes

"Article 13

1. In regions or subregions in which certain coastal States, owing to geographical or ecological factors, are unable, before all their coastlines, to extend the limits of their sovereignty and jurisdiction up to distances equal to those adopted by other coastal States in the same

Abbreviated title

Provisions

Cross reference

region or subregion, the former States shall enjoy, in the seas of the latter States, a preferential régime vis-à-vis third States in matters relating to the exploitation of renewable resources, the said régime to be determined by regional, subregional or bilateral agreements taking into account the interests of the respective States.

2. Enjoyment of the preferential régime referred to in the preceding paragraph shall be reserved to nationals of the usufructuary States for internal use."

"Article 14

The coastal States of a single region or subregion shall promote such forms of co-operation and consultation as they consider most appropriate in the legal, economic, scientific and technical spheres relating to maritime questions. ... (Complementary provisions on regional and subregional agreements)....."

(46) Argentina: draft
articles

"8. States in a particular region or subregion which for geographical or economic reasons do not see fit to extend their sovereign rights to an exclusive maritime area adjacent to their territorial sea shall enjoy a preferential régime for purposes of fishing in the exclusive maritime areas of other States belonging to the region or subregion, such régime to be determined by bilateral agreements providing for a fair adjustment of their mutual interests.

The said régime shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State."

6.6

Abbreviated title
(47) Canada, India, Kenya,
Madagascar Senegal
and Sri Lanka: Draft
Articles on Fisheries

Provisions

Articles 5 and

Cross reference

6.4

"ARTICLE 5

Neighbouring developing coastal States shall allow each other's nationals the right to fish in a specified area of their respective fishery zones on the basis of long and mutually recognized usage and economic dependence on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. This right will be available to the nationals of the State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located."

"ARTICLE 2

Regulations may be made on a regional basis for the exploration, exploitation, conservation and development of the living resources of the area of the sea outside the limits of the exclusive fishery zone, where these resources are of limited migratory habits and breed, feed and survive on the resources of the region. The States of the region may establish these regulations by entering into an agreement or convention between themselves, or request the Authority, designated for the purpose by the Conference on the Law of the Sea, to formulate those regulations for the region subject to ratification by them."

6.4, 6.6, 8.4

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(49) Fifteen power: Exclusive economic zone		6.4, 6.6.2, 9.4

Neighbouring developing States shall give reciprocal preferential treatment to one another in the exploitation of the living resources of their respective Economic Zones.

ARTICLE X

(50) Uganda and Zambia
Economic zone

"Article 4

"2. Fisheries within the Regional or Sub-regional economic zones shall be reserved for the exclusive use, exploration and exploitation by all the States within the relevant Region or Sub-region 6.6

"3. Relevant Regional or Sub-regional authorities shall have the exclusive right to explore, exploit and manage the non-living resources of the Regional or Sub-regional economic zones on behalf of all States in the Region or Sub-region. 6.7.3

"4. The regulation and supervision of activities within such Regional or Sub-regional Economic Zones shall be the responsibility of the relevant Regional or Sub-regional commissions."

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(68) Zaire: fishing	<p>"Article 2</p> <p>Land-locked States and geographically disadvantaged States shall have the right to participate, on a footing of equality and without discrimination, in the exploitation of the living resources of the economic zones of neighbouring coastal States.</p> <p>The detailed procedure for the exercise of such a right may be determined on a bilateral or regional basis in suitable arrangements.</p> <p>The benefit of that right shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States and for their sole account."</p>	9.2; 10.3

6.5 Limits: applicable criteria

Cross reference

Abbreviated title

Provisions

(8) Yaoundé conclusions

Part I (a) (5):

"I. (a) On the territorial sea, the contiguous zone and the high seas:

(5) The limit of the economic zone shall be fixed in nautical miles in accordance with regional considerations taking duly into account the resources of the region and the rights and interests of the land-locked and near land-locked States, without prejudice to limits already adopted by some States within the region. 1/

9.2

(10) Santo Domingo
Declaration

Patrimonial sea, para. 3:

"3. The breadth of this zone should be the subject of an international agreement, preferably of a world-wide scope. The whole of the area of both the territorial sea and the patrimonial sea, taking into account geographic circumstances, should not exceed a maximum of 200 nautical miles."

(25) Colombia, Mexico and
Venezuela: draft
articles

Article 8:

"The outer limit of the patrimonial sea shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea."

(27) Iceland: Area adjacent
to their territorial sea

Sole article:

"A coastal State may determine the extent of its exclusive jurisdiction and control over the natural resources of the maritime area adjacent to its territorial sea."

6.6.1; 6.7.3

1/ "On recommendation No. 5 others thought that the general principles of International Law should be referred to in order to fix maritime limits."

Cross reference

Abbreviated title

Provisions

The outer limits of this area shall be reasonable, keeping in view the geographical, geological, ecological, economic and other relevant local considerations, and shall not exceed 200 nautical miles."

(28) OAU Declaration

Part C, para. 6:

"That the African States recognize the right of each coastal State to establish an exclusive economic zone beyond their territorial seas whose limits shall not exceed 200 nautical miles, measured from the baseline establishing their territorial seas;"

Article B

(34) Brazil: draft articles

Within the limitations determined by article A, each State has the right to establish other modalities or combinations of legal régimes of sovereignty, jurisdiction or specialized competences in the marine area adjacent to its coasts.

2.3.2; 3.1

(37) Malta: coastal State jurisdiction

Chapter II: General

Article 2:

"1. The jurisdiction of a State extends to a belt of ocean space adjacent to its coast, described as national ocean space.

3.2

Abbreviated title

Provisions

Cross reference

- (37) Malta: coastal
State jurisdiction
(continued)
2. This jurisdiction is exercised subject to the provisions of base articles and to other rules of international law.
3. The jurisdiction of a coastal State extends to the air-space above national ocean space." 1/

1/ This article corresponds, with modification, to article 1 and article 2 of the 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

Chapter III: Baselines

Article 3:

"1. The normal baseline for measuring the breadth of national ocean space is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State and deposited with the International Ocean Space Institutions. 1/

2. The International Ocean Space Institutions shall give wide publicity to the charts deposited with them.

Article 4:

"1. In localities where the coastline is deeply indented or if there are islands or islets in the immediate vicinity of the coast the method of straight baselines joining appropriate land points not more than 24 nautical miles apart may be employed in drawing the baselines from which the breadth of national ocean space is measured." 2/

"2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast and the areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters. 3/

1/ Slight modification of Article 3, 1958 Territorial Sea Convention.

2/ Gives more precision to Article 4 (1), 1958 Territorial Sea Convention.

3/ Article 4 (2), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

3. Baselines shall not be drawn to and from low tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them. 1/

4. Baselines shall not be drawn from man-made islands, or from offshore fixed or floating installations of whatever nature whether or not joined to the sea-bed.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off from International Ocean Space the national ocean space of another State. 2/

6. The coastal State must clearly indicate straight baselines on large scale charts which shall be deposited with the International Ocean Space Institutions. 3/

7. The International Ocean Space Institutions shall give due publicity to the charts deposited. The competent organs of the Institution may object within two years of the deposit of the charts to baselines drawn by the coastal State which do not appear to be consistent with the provisions of these articles: in the event of continued disagreement between the International Ocean Space Institutions and the coastal State the matter shall be submitted for binding adjudication to the International Maritime Court."

Article 5:

"1. Waters on the landward side of the baseline of national ocean space form part of the internal waters of a State. 4/

6.3

1/ Article 4 (3), 1958 Territorial Sea Convention.

2/ See Article 4 (5), 1958 Territorial Sea Convention.

3/ See Article 4 (6), 1958 Territorial Sea Convention.

4/ Article 5 (1), Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

2. Where the establishment of a straight baseline in accordance with article 4 or in accordance with the 1958 Geneva Convention on the Territorial Sea has, or has had, the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of passage as defined in the present Convention shall exist in those waters." 1/

Article 6:

"1. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 miles, a closing line may be drawn between these two low-water marks and the waters enclosed thereby shall be considered as internal waters. 2/

2. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles a straight baseline of 24 nautical miles may be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length. 3/

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

1/ See for analogy Article 5 (2), 1958 Territorial Sea Convention.

2/ Article 7 (4), 1958 Territorial Sea Convention.

3/ Article 7 (5), 1958 Territorial Sea Convention.

4/ Article 7 (6), 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

"4. Within one year of the entry into force of the present convention, Contracting Parties shall deposit with the International Ocean Space Institutions a list of historic bays under their jurisdiction. Within two years of the deposit of the lists, the competent organs of the Institution may object to the contents of lists deposited with them. In the event of continued disagreement between the Institutions and the States concerned the matter shall be submitted to the International Maritime Court for binding adjudication." 1/

Article 7:

"1. For the purpose of delimiting national ocean space, the outermost permanent harbour works which form an integral part of a coastal harbour system and which are above water at high tide, shall be regarded as forming part of the coast. 2/

2. Floating harbour installations which move or can be moved shall not be regarded as forming an integral part of a coastal harbour system."

Article 8:

"If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks." 3/

1/ Provision required to avoid conflicts and to give certainty to international recognition of the claims of States relating to historic bays.

2/ See Article 8, 1958 Territorial Sea Convention.

3/ Article 13, 1958 Territorial Sea Convention.

Abbreviated title

Provisions

Cross reference

Chapter IV: Limits of national ocean space

Article 9:

"Jurisdiction over ocean space may not be claimed by a State by virtue of sovereignty or control over: (a) reefs and low tide elevations, whether or not lighthouses or other installations have been built on them; (b) islets; (c) man-made islands of whatever size; (d) fixed or floating installations of whatever nature, whether joined to the sea-bed or not; (e) underwater installations or works of whatever nature."

Article 10:

"1. When reefs, low tide elevations and islets are not situated within national ocean space, as defined in article 11, safety zones not exceeding twelve nautical miles in breadth may be established around such reefs, low-tide elevations and islets."

2. When reefs, low tide elevations and islets are situated within the national ocean space of a State other than the State exercising sovereignty or control over them, the breadth of the safety zones and the regulations to be observed within such zones shall be established by agreement between the States concerned. In the case of disagreement between the States concerned the matter shall be submitted to arbitration or to the International Maritime Court for binding adjudication.

3. When the reefs, low-tide elevations and islets are not situated within the national ocean space of any State, the breadth of the safety zones and the regulations to be observed within such zones shall be established by agreement between the State exercising sovereignty or control and the International Ocean Space Institutions. In the case of disagreement between the Institutions and the State exercising sovereignty or control, the matter shall be submitted to arbitration or to the International Maritime Court for binding adjudication."

Abbreviated title

Provisions

Cross reference

"4. The International Ocean Space Institutions shall pay special regard to the interests of the State exercising sovereignty or control over reefs, islets and low-tide elevations in all matters relating to the use of ocean space, including exploitation of natural resources, within the safety zones referred to in the foregoing paragraph.

5. The State exercising sovereignty or control over reefs, low-tide elevations and islets has the obligation to erect and maintain on them lighthouses or other facilities designed to reduce dangers to navigation."

Article 11:

"1. The jurisdiction of a State may extend to a belt of ocean space adjacent to its coast, the breadth of which is 200 nautical miles measured from baselines drawn in accordance with the provisions of chapter III of this Convention.

2. The jurisdiction of an island State or of an archipelago State may extend to a belt of ocean space adjacent to the coast of the principal island or islands, the breadth of which is 200 nautical miles measured from baselines drawn in accordance with the provisions of chapter III of this Convention. The principal island or islands of an archipelago State shall be designated by the State concerned and notified to the International Ocean Space Institutions. In the event of disagreement with the designations made by the archipelago State any Contracting Party may submit the matter to the International Maritime Court for binding adjudication."

Abbreviated title

Provisions

Cross reference

"3. When islands are less than ten square kilometres in area, the jurisdiction of the State exercising sovereignty or control may extend only to a belt of ocean space, adjacent to the coasts of such an island, the breadth of which does not exceed twelve nautical miles measured from the applicable baseline."

19

Article 16:

"The outer limit of national ocean space is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of national ocean space." 1/

Article 17:

"1. Contracting Parties agree to surrender against equitable and appropriate compensation their claims to jurisdiction over the sea-bed or waters beyond the limits indicated in these articles.

2. The compensation referred to in the foregoing paragraph shall be determined by the International Ocean Space Institutions in the light of all relevant factors including the known resources of the areas of ocean space surrendered and the practical possibilities of exploitation. In the event that the compensation proffered by the International Ocean Space Institution is considered inadequate by the Contracting Party concerned, the matter shall be submitted for binding adjudication to the International Maritime Court.

3. No compensation may be proffered by the International Ocean Space Institutions in the case of surrender of claims to jurisdiction over areas of ocean space adjacent to (a) reefs and low-tide elevations; (b) man-made islands; (c) fixed or floating installations of whatever nature; (d) underwater installations or works of whatever nature; (e) islets situated within the national ocean space of a State other than the State exercising sovereignty or control over them."

Abbreviated title

Provisions

Cross reference

Article 18:

"Ocean space not comprised within the limits indicated in the foregoing articles forms part of International Ocean Space, no part of which is subject to national jurisdiction for any purpose."

(43) China: Working paper

"2. Exclusive Economic Zone or Exclusive Fishery Zone

(1) A coastal State may reasonably define an exclusive economic zone (hereinafter referred to as the economic zone) beyond and adjacent to its territorial sea in accordance with its geographical and geological conditions, the state of its natural resources and its needs of national economic development.

The outer limit of the economic zone may not, in maximum, exceed 200 nautical miles measured from the baseline of the territorial sea."

(44) USA: coastal sea-bed
economic area

"2. The Coastal Sea-bed Economic Area is the area of the sea-bed which is

(a) seaward of _____; and

(b) landward of an outer boundary of _____."

(45) Australia, Norway:
Economic zone and
delimitation

"1. Economic Zone

C. The coastal State has the right to determine the outer limit of the (economic zone - patrimonial sea) up to a maximum distance of 200 nautical miles from the applicable baselines for measuring the territorial sea. However the coastal State has the right to retain where its continental shelf, namely the natural prolongation of its land mass extends beyond the (economic zone - patrimonial sea), the sovereign rights with respect to that area of the sea-bed and the subsoil thereof which it had under international law before the entry into force of this convention: such rights do not extend beyond the outer edge of the continental margin.

Abbreviated title

Provisions

Cross reference

2. Delimitation

6.7.3

C. No state shall by reason of this Convention claim or exercise rights over the natural resources of any area of the seabed and subsoil over which another state had under international law immediately before the coming into force of this convention sovereign rights for the purposes of exploring it or exploiting its natural resources."

(46) Argentina draft
articles

6.1

"4. A coastal State has sovereign rights over an area of sea adjacent to its territorial sea up to a distance of 200 nautical miles measured from the baseline from which the breadth of the territorial sea is measured or up to a greater distance coincident with the epicontinental sea.

For the purposes of this and the succeeding articles, the term "epicontinental sea means the column of water covering the seabed and subsoil which are situated at an average depth of 200 metres.

The scope of the above-mentioned rights is laid down in the succeeding articles."

"5. It is for each coastal State to fix the breadth of the area adjacent to its territorial sea up to the maximum distance prescribed in article 4, in accordance with criteria which take into account the regional geographical, geological, ecological, economic and social factors involved and interests relating to the preservation of the marine environment.

6. The delimitation of that area between two or more States shall be effected in accordance with the principles of international law."

Abbreviated title

(47) Canada, India, Kenya,
Madagascar, Senegal,
Sri Lanka: fisheries

Article 2:

The exclusive fishery zone may not extend beyond nautical miles 1/ from the baseline from which the breadth of the territorial sea is measured. 6.6.1

(49) Fourteen power:
exclusive zone

Article I:

"All States have a right to determine the limits of their jurisdiction over seas adjacent to their coasts beyond a territorial sea of miles in accordance with the criteria which take into account their own geographical, geological, biological, ecological, economic and national security factors."

Article III:

"The limits of the Economic Zone shall be fixed in nautical miles in accordance with criteria in each region, which take into consideration the resources of the region and the rights and interests of developing land-locked, near land-locked, shelf-locked States and States with narrow shelves and without prejudice to limits adopted by any State within the region. The Economic Zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining territorial sea." 9.2,
10.3

(50) Uganda, Zambia:
economic zone

Article 4:

"1. Beyond the uniform limits of the territorial seas of coastal States, there shall be established economic zones, the outer limit of which shall be a line every point of which shall not exceed nautical miles measured from the baselines, known as Regional or Sub-regional economic zones."

1/ The figure for the nautical miles in this Article will correspond to the figure mentioned for the concept of the exclusive economic zone.

Provisions

Cross reference

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(61) Pakistan: territorial sea and economic zone	Each coastal State shall also have the right to establish its Exclusive Economic Zone not exceeding 200 nautical miles, calculated from the baseline used for the determination of the limits of territorial sea.	2.3.2
(54) UK: Archipelagic States	Para. 4. Text reproduced in 16 under (54)	2.3.1; 5.2; 16

6.6 FISHERIES

Abbreviated title

Provisions

Cross reference

(37) Malta: coastal state jurisdiction

Chapter XII: Living resources of national ocean space

6.6.3

[text of Articles 81 to 90 reproduced under 6.6.3:
Management and Conservation]

(46) Argentina: Draft articles

"8. States in a particular region or subregion which for geographical or economic reasons do not see fit to extend their sovereign rights to an exclusive maritime area adjacent to their territorial sea shall enjoy a preferential régime for purposes of fishing in the exclusive maritime areas of other States belonging to the region or subregion, such régime to be determined by bilateral agreements providing for a fair adjustment of their mutual interests.

The said régime shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State."

(47) Canada, India, Kenya,
Madagascar, Senegal,
Sri Lanka: fisheries

"Article 2

6.4; 8.4

ARTICLE 2

Regulations may be made on a regional basis for the exploration, exploitation, conservation and development of the living resources of the area of the sea outside the limits of the exclusive fishery zone, where these resources are of limited migratory habits and breed, feed and survive on the resources of the region. The States of the region may establish these regulations by entering into an agreement or convention between themselves, or request the Authority, designated for the purpose by the Conference on the Law of the Sea, to formulate these regulations for the region subject to ratification by them."

Abbreviated title

Provisions

Cross reference

"ARTICLE 10

In respect of fisheries of highly migratory habits outside the limits of the exclusive fishery zone, regulations for their exploration, exploitation, conservation and development shall be made by the Authority designated for the purpose by the Conference on the Law of the Sea."

(63) Ecuador, Panama
and Peru: fisheries

Part I, Articles (A), (B), (C), (D), (E), (F) - Texts reproduced in 2.1 under (63).

2.1; 7.3

6.6.1 Exclusive fishery zone

Abbreviated title

(4) USA: Territorial Sea,
Straits and Fisheries

Article I:

Provisions

Cross reference

"1. ...

"2. In instances where the breadth of the territorial sea of a State is less than 12 nautical miles, such State may establish a fisheries zone contiguous to its territorial sea provided, however, that the total breadth of the territorial sea and fisheries zone shall not exceed 12 nautical miles. Such State may exercise within such a zone the same rights in respect of fisheries as it has in its territorial sea."

(14) Australia and New
Zealand: Fisheries

Parts I-XV:

6.6.3

I. "The coastal State shall have exclusive jurisdiction, in accordance with the Principles elaborated herein, over the living resources of the sea in an adequately wide zone of the high seas adjacent to its territorial sea.

II. "It shall be the responsibility of the coastal State to provide proper management and utilization of the living resources within its zone of exclusive jurisdiction, including -

- (a) maintenance of the level of stocks which will provide the maximum sustainable yield;
- (b) rational utilization of the resources and the promotion of economic stability coupled with the highest possible food production; and
- (c) where the resource is required for direct human consumption in the coastal state, the highest possible priority to be given to the production of fish for direct human consumption.

Abbreviated title

Provisions

Cross reference

- III. "Measures that the coastal State may take include:-
- (a) requiring licensing by it of fishing vessels and equipment to operate in the zone;
 - (b) limiting the number of vessels and the number of units of gear that may be used;
 - (c) specifying the gear permitted to be used;
 - (d) fixing the period during which fish or fish of a species or class may be taken;
 - (e) fixing the size of fish that may be taken;
 - (f) specifying the method of fishing that may be used in a specified area or for taking a specified species or class of fish and prohibiting any other methods.
- IV. "Pursuant to its exclusive jurisdiction, it would be for the coastal State to determine the allowable catch of any particular species, and to allocate to itself that portion of the allowable catch, up to 100 per cent, that it can harvest.
- V. "Where the coastal State is unable to take 100 per cent of the allowable catch of a species as determined under the Principles, it shall allow the entry of foreign fishing vessels with a view to maintaining the maximum possible food supply.
Such access shall be granted up to the level of allowable catch on an equitable basis without the imposition of unreasonable conditions and without discrimination between nationals of other States, except as may be provided for under phasing-out arrangements made in accordance with these Principles.
- VI. "Measures adopted by the coastal State shall take account of traditional subsistence fishing carried out in any part of the fisheries zone.

Abbreviated title

Provisions

Cross reference

- VII. "When the coastal State intends to allocate to itself the whole of the allowable catch of a species, in accordance with these Principles, it shall enter into consultations with any other State which requests such consultations and which is able to demonstrate that its vessels have carried on fishing in the fishery resources zone on a substantial scale for a period of not less than [ten] years with a view to:-
- (a) analysing the catch and effort statistics of the other state in order to establish the level of fishing operations carried out in the zone by the other state;
 - (b) negotiating special arrangements with the other state under which the latter's vessels would be 'phased out' of the fishery having regard to the developing fishing capacity of the coastal State; and
 - (c) in the event of agreement not being reached through consultation there shall be a 'phasing out' period of [five] years.
- VIII. "The coastal State, as an exercise of its jurisdiction over the resources of the zone, shall have powers of boarding, arrest and detention of fishing vessels. Breaches of a condition of a licence or of a law or regulation applying in the zone in accordance with these Principles shall be triable in the Courts of the coastal State concerned.
- IX. "In respect of 'wide-ranging' species of fish that are exploited within the zone, the coastal State shall participate in the formulation and implementation of international arrangements for the management of the species.
- X. "The coastal State has responsibility to conduct research on the resources within the zone to enable it to fulfil its responsibility to provide proper management and rational utilization of those resources. It shall publish the results of that research within a reasonable period. Other States operating within the zone shall assist in the research programmes and shall provide comprehensive catch, effort and biological data at reasonable intervals as required.

Abbreviated title

Provisions

Cross reference

- XI. "It is recognized that the anadromous species is a species in respect of which the coastal State concerned exercises onerous and unique responsibilities. On this basis that coastal State should have the sole right to manage the stocks of anadromous species bred in its home waters.
- XII. "Where a State alleges that:-
(a) the living resources of the zone are being substantially underexploited; or
(b) generally agreed conservation principles are being substantially departed from by the coastal State concerned,
it may request the coastal State to review the measures taken by it. The State making the allegation may require it to be referred to an advisory expert body that would be empowered to convey its findings to the States concerned and, if that body considers it desirable, to make recommendations with a view to resolving the issue.
- XIII. International arrangements, including where appropriate international fisheries commissions, shall be established for the management of the 'wide-ranging' species and as appropriate the 'bathypelagic' species and other species that inhabit the waters beyond the limits of national fisheries resource jurisdiction. All States shall have an equal right to participate in such organizations.
- XIV. [The role of the international bodies]
(Comment: As indicated in the Canadian Working Paper, the concept of coastal State responsibility does not preclude a role for international fishery commissions. These commissions might be global or they might be regional in nature. Such commissions could have an important advisory role vis-à-vis the coastal State in its discharge of its responsibilities.)

Abbreviated title

Provisions

Cross reference

XV. "It shall be the responsibility of the coastal State to ensure that fishing operations in the fishery zone shall be conducted with reasonable regard for other activities in the marine environment. Other activities shall be conducted with reasonable regard for fishing operations carried out within the zone."

(16) Moscow Declaration

Para. 1:

8.4

"The co-operation of all interested States in studying and regulating activity relating to the living resources of the sea is an essential condition for their rational use and for increasing the yield of fish from the seas and oceans. However, the partitioning among States of a substantial part of biologically interrelated areas of the high seas through the establishment by coastal States of special zones of great width (for example, more than 12 miles) and the proclamation of exclusive rights of coastal States over constantly migrating shoals of fish would make this task impossible to fulfil."

(27) Colombia, Mexico and
Venezuela: draft
articles

Article 11:

"1. The coastal State shall exercise jurisdiction and supervision over the exploration and exploitation of the renewable and non-renewable resources of the patrimonial sea and over allied activities.
2. In exercising such powers, the coastal State shall take appropriate measures to ensure that such activities are carried out with due consideration for other legitimate uses of the sea by other States."

6.1; 6.7.3

6.8.1

(43) China: Working
Paper

"(9) The above provisions relating to the economic zone shall also apply to the exclusive fishery zone as reasonably defined by a coastal State beyond its territorial sea, except that the resources in the exclusive fishery zone are confined to the living resources of the water column in the said fishery zone."

Abbreviated title

Provisions

Cross reference

["The above provisions" referred to in para. (9) are paras. (1) to (8) of Article 2 (Exclusive Economic Zone or Exclusive Fishery zone), see A/AC.138/SC.II/L.34.]

(46) Argentina: draft articles

"7. A coastal State has sovereign rights over the renewable and non-renewable natural resources, living and non-living, which are to be found in the said area.

6.1; 6.7.3

(47) Canada, India,
Kenya, Madagascar,
Senegal, Sri Lanka:
fisheries

ARTICLE I

"A coastal State has a right to establish an exclusive fishery zone beyond its territorial sea. The coastal State shall exercise sovereign rights for the purpose of exploration, exploitation, conservation and management, of the living resources, including fisheries, in this zone, and shall adopt from time to time such measures as it may deem necessary and appropriate. The living resources may be plant or animal, and may be located on the water surface, within the water column, on the sea bed or in the subsoil thereof.

ARTICLE 2

The exclusive fishery zone may not extend beyond... nautical miles */ from the baseline from which the breadth of the territorial sea is measured.

6.5

ARTICLE 3

Each coastal State shall notify to the Authority designated for the purpose by the Conference on the Law of the Sea the limits of the exclusive fishery zone defined by co-ordinates of latitude and longitude or by any other internationally recognized method and marked on large scale charts officially recognized by that State.

6.1

*/ The figure for the nautical miles in this Article will correspond to the figure mentioned for the concept of the exclusive economic zone.

Abbreviated title

Provisions

Cross reference

ARTICLE 4

The coastal State may allow nationals of other States to fish in its exclusive fishery zone, subject to such terms, conditions and regulations as it may from time to time prescribe. These may, inter alia, relate to the following:

- (a) Licensing of fishing vessels and equipment, including payment of fees and other forms of remuneration;
- (b) Limiting the number of vessels and the number of gear that may be used;
- (c) Specifying the gear permitted to be used;
- (d) Fixing the periods during which the prescribed species may be caught;
- (e) Fixing the age and size of fish that may be caught;
- (f) Fixing the quota of catch, whether in relation to particular species of fish or to catch per vessel over a period of time or to the total catch of nationals of one State during a prescribed period.

ARTICLE 5

Neighbouring developing coastal States shall allow each other's nationals the right to fish in a specified area of their respective fishery zones on the basis of long and mutually recognized usage and economic dependence on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. This right will be available to the nationals of the State concerned and cannot be transferred to third parties by lease or licence, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located.

6.4; 6.6.3

Abbreviated title

Provisions

Cross reference

ARTICLE 6

6.6.3; 9.4

Nationals of a developing landlocked State shall enjoy the privilege to fish in the neighbouring area of the exclusive fishery zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the landlocked State concerned. This privilege will be available to the nationals of the landlocked State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located.

ARTICLE 7

No State exercising foreign domination or control over a territory shall be entitled to establish an exclusive fishery zone or to enjoy any other right or privilege referred to in these Articles with respect to such territory.

ARTICLE 11

(On Anadromous Species)

ARTICLE 12

All fishing activities in the exclusive fishery zone and the rest of the sea shall be conducted with due regard to the interests of the other States in the legitimate uses of the sea. In the exercise of their rights, the other States shall not interfere with fishing activities in the exclusive fishery zone.

Abbreviated title

Provisions

Cross reference

ARTICLE 13

The jurisdiction and control over all fishing activities within the exclusive fishery zone shall lie with the coastal State concerned. Any difference or dispute concerning the limits of the zone or the interpretation or validity of the terms, conditions or regulations referred to in Article 5, or the interpretation and application of these Articles shall be settled by the competent institutions of the coastal State concerned.

2.1

Any difference or dispute concerning fishing activities outside the exclusive fishery zone shall be referred to the Authority designated for the purpose by the Conference on the Law of the Sea."

(49) Fourteen power
draft:
exclusive
economic zone

ARTICLE II

"In accordance with the foregoing Article, all States have the right to establish an Economic Zone beyond the territorial sea for the benefit of their peoples and their respective economies in which they shall have sovereignty over the renewable and non-renewable natural resources for the purpose of exploration and exploitation. Within the zone they shall have exclusive jurisdiction for the purpose of control, regulation and exploitation of both living and non-living resources of the Zone and their preservation, and for the purpose of prevention and control of pollution.

6.1;
6.7;
6.8

The rights exercised over the Economic Zone shall be exclusive and no other State shall explore and exploit the resources therein without obtaining permission from the coastal State on such terms as may be laid down in conformity with the laws and regulations of the coastal State.

The coastal State shall exercise jurisdiction over its Economic Zone and third States or their nationals shall bear responsibility for damage resulting from their activities within the Zone."

Provisions

Article 4

(50) Uganda, Zambia:
economic zone

"2. Fisheries within the Regional or Sub-regional economic zones shall be reserved for the exclusive use, exploration and exploitation by all the States within the relevant Region or Sub-region."

Abbreviated title

6.6.2 Preferential rights of coastal States

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(11) Canada: Living resources	Part III	
	"VIII. <u>SPECIAL INTEREST OF THE COASTAL STATE</u>	6.6.3; 7.3
	<p>The coastal State has a special interest in and responsibility for the conservation of the living resources of the sea adjacent to its coast and should have the authority required to manage those resources in a manner consistent with its special interest and responsibility, as well as preferential rights in the harvest of such resources.</p>	
(16) Moscow Declaration	Paragraph 5	7.3; 7.5
	<p>"5. In view of the different economic and technological capacities of coastal and other developing States and of countries which engage in long-distance fishing in the same areas as those States, developing countries should be given certain preferential rights enabling them to develop their national fishing industry and overcome their technological backwardness."</p>	
(49) Fourteen power Draft: exclusive economic zone	Article 1	6.4; 9.4
	<p>"Neighbouring developing States shall give reciprocal preferential treatment to one another in the exploitation of the living resources of their respective Economic Zones."</p>	

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(68) Zaire: fishing	"Article 1 Neighbouring developing States shall grant one another preferential treatment in their respective economic zones with regard to the exploitation of living resources. The procedure for the exercise of such rights shall be settled by arrangement between the States concerned. The benefit of the preferential treatment provided for in the first paragraph shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States. The conservation and management of the resources of the entire economic zone shall lie within the competence and authority of the coastal State."	7.3; 9.4

6.6.3. Management and conservation

Cross reference

Abbreviated title

Provisions

6.6.1

(14) Australia and New Zealand:
Fisheries

Parts I-XV

Text reproduced in 6.6.1 under (14)

(36) Ecuador, Panama, Peru:
draft articles

"Article 8 The prospecting, protection, conservation and exploitation of the renewable resources of the adjacent sea shall also be subject to the regulations of the coastal State and to any relevant agreements which it may conclude, with due regard, so far as may be appropriate, to co-operation with other States and the recommendations of international technical organizations.

... (Complementary provisions on natural resources)".

(37) Malta: coastal State
jurisdiction

Chapter XII: Living resources of national ocean space

6.6

"Article 81 1. The term 'conservation of living resources' means the aggregate of measures rendering possible the optimum sustainable yield from such resources.

6.6

2. Conservation programmes shall be formulated with a view to securing in the first place a supply of food for human consumption".

"Article 82 1. It shall be the responsibility in the first instance of the coastal State to formulate and implement appropriate and effective programmes of conservation of the living resources of national ocean space. Such conservation programmes shall not discriminate between national and foreign fishermen and shall be based on appropriate and reliable scientific findings.

6.6

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(37) Malta: coastal State jurisdiction (continued)	<p>2. Conservation programmes shall include:</p> <p>(a) measures of biological management which may be necessary or desirable to maintain or increase the stock of living resources of national ocean space;</p> <p>(b) measures of economic management which may be necessary or desirable to maintain fishing effort in national ocean space at levels providing maximum net returns in relation to potential sustained catch;</p> <p>(c) measures of regulation - including, <u>inter alia</u>, licensing, closed areas, closed seasons, limitations on size and condition of specific living resources which may be caught and limitations on type of gear - designed to render possible the successful implementation of measures of biological and economic management.</p> <p>3. Programmes of conservation of the living resources of national ocean space shall be given due publicity by the coastal State and shall be communicated to the International Ocean Space Institutions.</p>	
	<p>"Article 83 1. In view of the vital interest of the international community in the maintenance of the productivity of fisheries, the coastal State has the obligation:</p> <p>(a) to consult with other States in the region and with the International Ocean Space Institutions before undertaking or permitting activities in national ocean space which could substantially reduce the living resources of ocean space outside its jurisdiction;</p>	

Abbreviated title

(37) Malta: coastal State
jurisdiction (continued)

Provisions

(b) to maintain the quality of the marine environment in national ocean space in a state which (i) does not adversely affect fish spawning areas within its jurisdiction; (ii) does not produce significant deleterious effects on the living resources of ocean space outside its jurisdiction;

(c) to co-operate with the International Ocean Space Institutions in the formulation and implementation of programmes of conservation of living resources of its national ocean space when the recommendations of the Institutions are based on reliable and appropriate scientific findings;

(d) to co-operate with coastal States in the region in the formulation and implementation of programmes of conservation of the living resources of national ocean space when there is need for the application of regional conservation measures in the light of the existing knowledge of the fishery.

"Article 84 1. The International Ocean Space Institutions, and persons or entities under their sponsorship, may conduct in national ocean space beyond twelve nautical miles from the coast giving prior notice thereof to the coastal State investigations for the purpose of obtaining such biological samples and scientific information relating to the living resources of ocean space as may be necessary to formulate rational and effective programmes of conservation.

2. The coastal State shall be offered reasonable opportunity to appoint its nationals to participate in the investigations mentioned in the foregoing paragraph and, in any case, shall be provided with the full data obtained and an interpretation thereof by the International Ocean Space Institutions.

Cross reference

6.6

6.6

Abbreviated title

(37) Malta: coastal State
jurisdiction (continued)

Provisions

3. The International Ocean Space Institutions have the obligation to assist, at its request, any State to formulate and implement appropriate and effective programmes of conservation of the living resources of its national ocean space.

"Article 85 The International Ocean Space Institutions and the coastal State or States concerned shall elaborate in close consultation and shall implement through appropriate regional bodies programmes for the conservation of such living resources of national ocean space the migratory range or which extends into international ocean space. The living resources to which reference is made include, inter alia, anadromous resources and sea mammals."

"Article 86 Disagreements between coastal States or between the International Ocean Space Institutions and a coastal State relating to matters contained in Articles 83 and 85 shall be submitted to the International Maritime Court for binding adjudication."

21

"Article 87 Every State shall take the necessary legislative measures to provide that violations of programmes of conservation of living resources adopted by the coastal State or jointly by the coastal State and the International Ocean Space Institutions, by vessels flying its flag or persons subject to its jurisdiction shall be a punishable offence."

"Article 88 1. The coastal State may reserve to its nationals the exploitation of some or of all the living resources of its national ocean space."

6.6

Abbreviated title

(37) Malta: coastal State
jurisdiction (continued)

Provisions

Cross reference

2. The International Ocean Space Institutions and the coastal State or States concerned shall elaborate and implement in close consultation, if necessary through appropriate regional bodies, non-discriminatory programmes for the exploitation of such living resources of national ocean space the migratory range of which extends into international ocean space.

3. Nothing in the foregoing paragraphs shall affect traditional subsistence fishing or the catching of fish for immediate human consumption by foreign fishermen in national ocean space: such activities shall be defined and regulated in special conventions negotiated between States in the region.

4. Notwithstanding the provisions of sub-paragraph 1, the coastal State has an obligation to provide adjacent land-locked countries with access to the living resources of its national ocean space on conditions similar to those applicable to its own nationals."

"Article 39 1. The coastal State has the obligation to exploit, or permit the exploitation of, the living resources of its national ocean space in accordance with appropriate and effective programmes of conservation.

6.6

2. Failure to comply with the provisions of the foregoing paragraph entails legal liability for damages and may be brought to the attention of the International Ocean Institutions, when such failure causes a significant reduction of fish stocks or produces significant deleterious effects on the living resources of ocean space outside the jurisdiction of the coastal State."

Cross reference

Provisions

Abbreviated title

(46) Argentina: Draft articles

"10. The protection and conservation of renewable resources existing in the area are likewise subject to the regulations of the coastal States concerned and to such agreements as they may conclude on the matter, taking into account, where relevant, co-operation with other States and the recommendations of international technical bodies."

(47) Canada, India, Kenya,
Madagascar, Senegal,
Sri Lanka: fisheries

"Article 5 Neighbouring developing coastal States shall allow each other's nationals the right to fish in a specified area of their respective fishery zones on the basis of long and mutually recognised usage and economic dependence on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. This right will be available to the nationals of the State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located."

6.4; 6.6.1

"Article 6 Nationals of a developing landlocked State shall enjoy the privilege to fish in the neighbouring area of the exclusive fishery zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the landlocked State concerned. This privilege will be available to the nationals of the landlocked State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located."

6.6.1; 9.4

Abbreviated title

(49) Fourteen power draft:
exclusive economic zone

Provisions

"Article II In accordance with the foregoing Article, all States have the right to establish an Economic Zone beyond the territorial sea for the benefit of their peoples and their respective economies in which they shall have sovereignty over the renewable and non-renewable natural resources for the purpose of exploration and exploitation. Within the zone they shall have exclusive jurisdiction for the purpose of control, regulation and exploitation of both living and non-living resources of the Zone and their preservation, and for the purpose of prevention and control of pollution."

Cross reference

6.1; 6.6.1; 6.7;
6.7.3; 6.8

"Article VII Without prejudice to the general jurisdictional competence conferred upon the coastal State by Article II above, the State may establish special regulations within its Economic Zone for:

6.1; 6.8; 6.9

- (a) Exclusive exploration and exploitation of renewable resources;
- (b) Protection and conservation of the renewable resources;
- (c) Control, prevention and elimination of pollution of the marine environment;
- (d) Scientific research."

(63) Ecuador, Panama and
Peru: fisheries

Part I, Article (D) - Text reproduced in 2.1 under (63).

2.1

6.6.4 Protection of coastal States: fisheries in
enclosed and semi-enclosed seas

6.6.5 Regime of islands under foreign domination and control
in relation to zones of exclusive fishing jurisdiction

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(28) OAU Declaration	Part C, para.10 "10. That nothing in the propositions set herein should be construed as recognizing rights of territories under colonial, foreign or racist domination to the foregoing."	
(68) Zaire: fishing	"Article 4 No State exercising colonial or similar domination may take advantage of the provisions of the foregoing articles to act in place of another country situated outside its national territory."	

6.7. Sea-bed within national jurisdiction

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(31) Bolivia: land-locked countries	<p>"The land-locked (developing) countries shall have the same obligations and rights as contiguous (developing) coastal States with regard to participation in the live resources of the seas adjacent to the region, the natural resources of the continental shelf and those lying in the sea-bed or the sub-soil thereof within the limits of the <u>jurisdictional sea (Exclusive Economic Zone)</u>."</p>	5.1, 9.4

6.7.1. Nature and characteristics

6.7.2. Delineation between adjacent and opposite States

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé conclusions	Part I (a) (6) "(6) The limits between two or more States shall be fixed in conformity with the United Nations Charter and that of the Organization of African Unity."	
(10) Santo Domingo Declaration	Patrimonial sea, para. 4. "4. The delimitation of this zone between two or more States, should be carried out in accordance with the peaceful procedures stipulated in the Charter of the United Nations."	
(33) Turkey: draft article Rev.1	"1. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the respective maritime boundaries shall be determined by agreement among them in accordance with equitable principles, taking into account all the relevant circumstances. 2. In the course of the negotiations which will be held with a view to arriving at an agreement, the States shall take into account, <u>inter alia</u> , special circumstances such as the general configuration of the respective coasts, the existence of islands or islets of another State and the physical and geological structure of the marine area involved, including the sea-bed and subsoil thereof. 3. The States shall make use of the methods envisaged in Article 33 of the United Nations Charter or other peaceful means and methods open to them, in order to resolve differences which may arise in the course of negotiations. 4. In the absence of special circumstances, due regard should be given to the principles of median line or equidistance in delimitation of respective boundaries."	2.3.1, 5.3

Cross reference

Provisions

Abbreviated title

(37) Malta: coastal State
jurisdiction

Chapter V: Delimitation of national ocean space

Article 19:

"1. Where two or more States, whose coasts are opposite each other, are separated by an area of ocean space less than 400 nautical miles in breadth, the boundary of national ocean space appertaining to such States shall be the median line every point of which is equidistant from the nearest points of the baselines from which the breadth of national ocean space of each State is measured.

2. Where two States are adjacent to each other the boundary of ocean space appertaining to such States shall be determined by the application of the principle of equidistance from the nearest points of the baselines from which the breadth of national ocean space is measured.^{1/}

3. The provisions of the foregoing paragraphs shall not apply where it is necessary by reason of historic title or other exceptional circumstance to delimit the national ocean space of the States opposite or adjacent to each other in a manner which is at variance with those provisions.

4. In the event of disagreement between States adjacent or opposite each other with regard to the manner of delimitation of their respective national ocean space, the matter shall be submitted to arbitration or to the International Maritime Court for binding adjudication at the request of any of the States concerned.

^{1/} See analogy, 1958 Continental Shelf Convention, Article 6.

Abbreviated title

Provisions

Cross reference

5. In the event of disagreement between a coastal State or States and the International Ocean Space Institutions with regard to the manner of delimitation of international ocean space and national ocean space respectively, the matter shall be submitted to arbitration or to the International Maritime Court for binding adjudication at the request of any Parties concerned.

6. The lines of delimitation between the national ocean space of two States lying adjacent or opposite to each other shall be marked on large scale charts officially recognized by the States concerned and deposited with the International Ocean Space Institutions.^{1/}

(43) China: working
paper

"2. Exclusive Economic Zone or Exclusive Fishery Zone

(8) The delimitation of boundaries between the economic zones of coastal States adjacent or opposite to each other shall be jointly determined through consultations on an equal footing.

Coastal States adjacent or opposite to each other shall, on the basis of safeguarding and respecting the sovereignty of each other, conduct necessary consultations to work out reasonable solutions for the exploitation, regulation and other matters relating to the natural resources in the contiguous parts of their economic zones."

(45) Australia, Norway:
Economic zone

"2. Delimitation

5.3

A. Adjacent and opposite States shall use their best endeavours to reach agreement on the delimitation between them of their (economic zones - patrimonial seas) and their seabed areas in accordance with equitable principles.

^{1/} See Article 12 (2), 1958 Territorial Sea Convention.

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
	B. Where there is an agreement between the States concerned, questions relating to the delimitation of their (economic zones - patrimonial seas) and their seabed area shall be determined in accordance with the provisions of that agreement.	5.3
	D. Subject to principles A, B and C above, and unless the drawing up of another boundary is justified by special circumstances, the boundary shall be an equidistant line in the case of adjacent coasts and a median line in the case of opposite coast."	5.3
(49) Fourteen power Draft: "Article IX: exclusive economic zone	<p>The deliniation of the Economic Zone between adjacent and opposite States shall be carried out in accordance with international law. Disputes arising therefrom shall be settled in conformity with the Charter of the United Nations and any other relevant regional arrangements."</p>	21

6.7.3. Sovereign rights over natural resources

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(10) Santo Domingo Declaration	Patrimonial sea, para. 1. "1. The coastal State has sovereign rights over the renewable and non-renewable natural resources, which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea."	6.1, 6.8.1
(25) Colombia, Mexico and Venezuela: draft articles	Articles 4 and 11.1 "Article 4. The coastal State has sovereign rights over the renewable and non-renewable natural resources which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea." "Article 11.1. The coastal State shall exercise jurisdiction and supervision over the exploration and exploitation of the renewable and non-renewable resources of the patrimonial sea and over allied activities."	6.1 6.1, 6.6.1
(27) Iceland: Area adjacent to territorial sea	First paragraph: "A coastal State may determine the extent of its exclusive jurisdiction and control over the natural resources of the maritime area adjacent to its territorial sea."	
(37) Malta: coastal State jurisdiction	Chapter XIV: <u>Mineral and other non-living resources of national ocean space</u>	
	"Article 93 1. The coastal State may reserve to its nationals the exploitation of the mineral and other non-living resources of national ocean space."	6.7; 9.2

Cross reference

Provisions

Abbreviated title

- | | | | |
|------|---|--|-------------------------|
| (37) | Malta: coastal State jurisdiction (continued) | 2. Notwithstanding the provisions of the foregoing paragraph, the coastal State has an obligation to provide adjacent land-locked countries with access to the mineral and other non-living resources of its national ocean space on conditions similar to those applicable to its own nationals." | 6.4 |
| (45) | Australia, Norway: Economic zone and delimitation | "C. No State shall by reason of this Convention claim or exercise rights over the natural resources of any area of the seabed and subsoil over which another State had under international law immediately before the coming into force of this convention sovereign rights for the purposes of exploring it or exploiting its natural resources." | 6.5 |
| (46) | Argentina: draft articles | "7. A coastal State has sovereign rights over the renewable and non-renewable natural resources, living and non-living, which are to be found in the said area." | 6.1; 6.6.1 |
| (49) | Fourteen power draft: exclusive economic zone | <p>"9. The prospecting and exploration of the maritime area adjacent to the territorial sea and the exploitation of the natural resources existing therein are subject to the regulations of the coastal States concerned, which may reserve those activities to themselves or to their nationals or may allow third parties to engage in them in accordance with the provisions of their internal laws and of such international agreements as they may conclude on the matter."</p> <p>ARTICLE II</p> <p>In accordance with the foregoing Article, all States have the right to establish an <u>Economic Zone</u> beyond the territorial sea for the benefit of their peoples and their respective economies in which they shall have sovereignty over the renewable and non-renewable natural resources for the purpose of exploration and exploitation. Within the zone they shall have exclusive jurisdiction for the purpose of control, regulation and exploitation of both living and non-living resources of the Zone and their preservation, and for the purpose of prevention and control of pollution.</p> | 6.1; 6.6.1;
6.7; 6.8 |

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(49) Fourteen power draft: exclusive economic zone	<p>The rights exercised over the Economic Zone shall be exclusive and no other State shall explore and exploit the resources therein without obtaining permission from the coastal State on such terms as may be laid down in conformity with the laws and regulations of the coastal State.</p> <p>The coastal State shall exercise jurisdiction over its Economic Zone and third States or their nationals shall bear responsibility for damage resulting from their activities within the Zone.</p>	
(50) Uganda, Zambia: economic zone	<p>"Article 4</p> <p>3. Relevant regional or sub-regional authorities shall have the exclusive right to explore, exploit and manage the non-living resources of the regional or sub-regional economic zones on behalf of all States in the region or sub-region."</p>	

6.7.4 Limits - applicable criteria

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(2) Tanzania: International Sea-bed Authority	<p>"(1) The national jurisdiction of a coastal State shall extend to an adjacent area of the sea-bed and the ocean floor and the subsoil thereof, including its resources, to a water depth of metres. A coastal State may, in its discretion, declare that its jurisdiction over such area and its resources extends to a line, every point of which is not more than miles from the nearest points on the baselines, from which the breadth of its territorial sea is measured."</p>	See as regards limits of the exclusive economic zone sub-item 6.5

- 6.8. Prevention and control of pollution and other hazards to the marine environment
6.8.1 Rights and responsibilities of coastal States

Cross reference

Abbreviated title

Provisions

(8) Yaoundé conclusions

Part I (a) para. (3) first sentence

6.1, 6.2

"(3) The African States have equally the right to establish beyond the Territorial Sea an Economic Zone over which they will have an exclusive jurisdiction for the purpose of control regulation and national exploitation of the living resources of the Sea and their reservation for the primary benefit of their peoples and their respective economies, and for the purpose of the prevention and control of pollution."

(10) Santo Domingo Declaration

Patrimonial sea, para. 2

6.8.1, 6.9

"2. The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea, as well as the right to adopt the necessary measures to prevent marine pollution and to ensure its sovereignty over the resources of the area."

(25) Colombia, Mexico and Venezuela: draft articles

Article 5

"Article 5. The coastal State has the right to adopt the necessary measures to ensure its sovereignty over the resources and prevent marine pollution of its patrimonial sea."

(28) OAU Declaration

Part C, para. 8

6.1, 6.9

"8. That the African countries consider that scientific research and the control of marine pollution in the Economic Zone shall be subject to the jurisdiction of the coastal States;"

Abbreviated title

Provisions

Cross reference

(36) Ecuador, Panama,
Peru: draft articles

"Section V - Pollution control régime

Article 9:

It shall be the responsibility of the coastal State to establish measures to prevent, reduce or eliminate in its adjacent sea any damage or risks arising from pollution or other effects detrimental or dangerous to the ecological system of the marine environment, water quality and use, living resources, human health and the recreation of its population, with due regard to co-operation with other States and the recommendations of international technical organizations.

.. (Complementary provisions on pollution)"

(37) Malta: coastal
State jurisdiction

"Chapter XIV: Mineral and other non-living resources of national ocean space

Article 94

1. The exploitation of the mineral resources of national ocean space by a coastal State must not cause significant change in the natural state of the marine environment of ocean space beyond its jurisdiction or significant interference with navigation, scientific research or the laying and repair of submarine cables and pipelines.

2. The coastal State has the obligation to take special precautions before undertaking or authorizing the exploitation of petroleum and natural gas in areas of national ocean space subject to frequent natural disasters.

3. Non-compliance with the provisions contained in the foregoing paragraph entails legal responsibility and may be brought to the attention of the International Ocean Space Institutions by any Contracting Party."

Abbreviated title

Provisions

Cross reference

"Chapter XV: Waste disposal and storage^{1/}

Article 96:

1. No State may utilize the national ocean space of another State for the purpose of waste disposal and for storage of petroleum or other substances without the consent of that State.

2. No State may utilize international ocean space for the purpose of waste disposal or for storage of petroleum or other substances without the consent of the International Ocean Space Institutions.

Article 97:

1. Subject to the provisions of such international conventions to which it may be a Party, every coastal State may utilize its national ocean space for the purpose of waste disposal and of storage of petroleum substances provided that effective measures are taken to prevent pollution of international ocean space or of ocean space subject to the jurisdiction of another State."

^{1/} This chapter should be read in conjunction with the Malta draft articles on the preservation of the marine environment contained in document A/AC.138/SC.III/L.33.

Abbreviated title

Provisions

Cross reference

"2. In undertaking or permitting waste disposal or storage of petroleum or other substances in its national ocean space every coastal State must comply with such international standards and rules as may be adopted by the International Ocean Space Institutions or as are contained in widely ratified international Conventions.

3. Every coastal State has the obligation to take strict precautions in the disposal and storage of radioactive wastes and of toxic organic and inorganic chemical wastes in its national ocean space.

4. Radioactive wastes and toxic chemical wastes shall be stored in special clearly delimited sites, the location of which shall be communicated to the International Ocean Space Institutions. No such sites shall be established in areas subject to frequent natural disasters.

Article 98:

1. When the failure on the part of the coastal State to take the measures and precautions indicated in the foregoing article causes significant pollution in international ocean space the International Ocean Space Institutions may submit the matter to the International Maritime Court for binding adjudication and determination of damages.

2. When the failure on the part of the coastal State to take the measures and precautions indicated in the foregoing article causes significant pollution in the national ocean space of another State, this State may bring the matter to the attention of the International Maritime Court for binding adjudication and determination of damages.

Article 99:

1. Every coastal State has the obligation in so far as its capabilities permit to monitor the quality of the marine environment of its national ocean space, where desirable, in co-operation with other States in the region."

Abbreviated title

Provisions

"2. Every coastal State has the obligation to co-operate with the International Ocean Space Institutions in the monitoring of the quality of the marine environment.

3. The International Ocean Space Institutions may conduct in national space beyond twelve miles from the coast investigations for the purpose of obtaining scientific data on the quality of the marine environment, giving prior notice thereof to the coastal State. The coastal State shall be offered reasonable opportunity to appoint its nationals to participate in the investigations and, in any case, shall be provided with a **summary** of the full data obtained and an interpretation thereof by the Institutions."

(44) USA: coastal seabed economic area

"Article 2:

The coastal State, in exercising the rights referred to in Article 1, shall ensure that its laws and regulations, and any other actions it takes pursuant thereto in the Coastal Seabed Economic Area, are in strict conformity with the provisions of this Chapter and other applicable provisions of this Convention, and in particular: (a)

(b) the coastal State shall take appropriate measures to prevent pollution of the marine environment from the activities set forth in Article 1 and shall ensure compliance with international standards in existence or promulgated by the Authority or the Inter-Governmental Maritime Consultative Organization, as appropriate, to prevent such pollution;"

(46) Argentina: draft articles

"11. A coastal State shall also have jurisdiction to enforce in the maritime area adjacent to its territorial sea such measures as it may enact in order to prevent, mitigate or eliminate pollution damage and risks and other effects harmful or dangerous to the ecosystem of the marine environment, the quality and use of water, living resources, human health and the recreation of its people, taking into account co-operation with other States and in accordance with internationally agreed principles and standards."

Provisions

Abbreviated title

(49) Fourteen power
Draft: exclusive
economic zone

"Article II;

In accordance with the foregoing Article, all States have the right to establish an Economic Zone beyond the territorial sea for the benefit of their peoples and their respective economies in which they shall have sovereignty over the renewable and non-renewable natural resources for the purpose of exploration and exploitation. Within the zone they shall have exclusive jurisdiction for the purpose of control, regulation and exploitation of both living and non-living resources of the Zone and their preservation, and for the purpose of prevention and control of pollution."

"Article VII;

Without prejudice to the general jurisdictional competence conferred upon the coastal State by Article II above, the State may establish special regulations within its Economic Zone for:

- (a) Exclusive exploration and exploitation of renewable resources;
- (b) Protection and conservation of the renewable resources;
- (c) Control, prevention and elimination of pollution of the marine environment;
- (d) Scientific research."

6.9 Scientific research

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(10) Santo Domingo Declaration	<p>Patrimonial sea, para. 2:</p> <p>"2. <u>The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea, as well as the right to adopt the necessary measures to prevent marine pollution and to ensure its sovereignty over the resources of the area.</u>"</p>	6.8; 6.8.1
(25) Colombia, Mexico and Venezuela: draft articles	<p>Article 6:</p> <p>"The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea."</p>	
(27) OAU Declaration	<p>Part C, para. 8:</p> <p>"That the African countries consider that <u>scientific research and the control of marine pollution in the Economic Zone shall be subject to the jurisdiction of the coastal States;</u>"</p> <p>Part G, para. 14</p> <p>"14. All States regardless of their geographical situation have the right to carry out scientific research in the marine environment. The research must be for peaceful purposes and should not cause any harm to the marine environment.</p> <p>Scientific research in the territorial sea or in the exclusive economic zone shall only be carried out with the consent of the coastal state concerned.</p> <p>States agree to promote international co-operation in marine scientific research in areas beyond limits of national jurisdiction. Such scientific research shall be carried out in accordance with rules and procedures laid down by the international machinery."</p>	6.1; 6.8
	<p>Part G, para. 14</p> <p>"14. All States regardless of their geographical situation have the right to carry out scientific research in the marine environment. The research must be for peaceful purposes and should not cause any harm to the marine environment.</p> <p>Scientific research in the territorial sea or in the exclusive economic zone shall only be carried out with the consent of the coastal state concerned.</p> <p>States agree to promote international co-operation in marine scientific research in areas beyond limits of national jurisdiction. Such scientific research shall be carried out in accordance with rules and procedures laid down by the international machinery."</p>	6.1

Abbreviated title

(36) Ecuador, Panama,
Peru: Draft
articles

Provisions

Section VI - Scientific research régime

Article 10

1. It shall be for the coastal State to authorize any scientific research activities that may be conducted in its adjacent sea; the coastal State shall also have the right to participate in such activities and to receive the results obtained.

2. In the regulations which it establishes for this purposes, the coastal State shall bear particularly in mind the desirability of promoting and facilitating such activities and of co-operating with other States and international organizations in disseminating the results of the research.

... (Complementary provisions on scientific research)

(37) Malta: Coastal
State jurisdiction

"Chapter IX: Scientific Research"
(38)

"Article 63"

1. Subject to the provisions of these articles, all States, whether coastal or not, shall enjoy the right to undertake scientific research in national open space.

2. Scientific research means any systematic investigation, whether fundamental or applied, and related experimental work, the primary aim of which is to increase knowledge of the marine environment for peaceful purposes.

3. Scientific research activities shall not form the basis for any claims with regard to the exploitation of the natural resources of national ocean space."

(38) This chapter should be read in conjunction with the Malta draft articles on scientific research contained in document A/AC.138/SC.III/L.34. The order of the articles has been changed and some detailed provisions have been added.

Cross reference

Abbreviated title

Provisions

Cross reference

"Article 64

The coastal State may require thirty days advance notification of the intention to conduct scientific research in its national ocean space."

"Article 65

In view of the common interest of the international community in the acquisition of knowledge relating to ocean space, the coastal State shall not hamper or obstruct scientific research activities in national ocean space when the person or entity undertaking the research is registered with the International Ocean Space Institutions and complies with such general and non-discriminatory standards and rules as may be adopted by the International Ocean Space Institutions.

2. The person or entity undertaking scientific research in national ocean space must comply with the health, customs, police, security and pollution control regulations of the coastal State."

"Article 66

In the absence of relevant standards and rules adopted by the International Ocean Space Institutions, the coastal State may enact reasonable and non-discriminatory regulations relating to the conduct of scientific research in its national ocean space."

"Article 67

1. Coastal State regulations relating to the conduct of scientific research may be brought to the attention of the International Ocean Space Institutions when these regulations are considered to be discriminatory or to constitute an unreasonable impediment to the exercise of the right of scientific research or to be inconsistent with such general standards and rules as may be adopted by the International Ocean Space Institutions.

Abbreviated title

Provisions

Cross reference

2. The International Ocean Space Institutions may recommend that the coastal State rescind or modify regulations which are found to be discriminatory or to constitute an unreasonable impediment to the exercise of the right of scientific research or to be inconsistent with such general standards and rules as may be adopted by the International Ocean Space Institutions.

3. In the event of continued disagreement between the International Ocean Space Institutions and the coastal State the matter shall be submitted to the International Maritime Court for binding adjudication."

"Article 68

The coastal State may require a foreign vessel or aircraft undertaking scientific research, which does not comply with the standards and rules adopted by the International Ocean Space Institutions or enacted by the coastal State concerning the conduct of scientific research, to leave national ocean space."

"Article 69

1. Underwater habitats, installations, equipment or devices for scientific purposes may not be established on or in the sea-bed of ocean space under the jurisdiction of a coastal State without the latter's consent.

2. The coastal State has the right to inspect and the obligation to protect habitats, installations, equipment and devices for scientific purposes established with its consent on or in the sea-bed or ocean space under its jurisdiction and to ensure that they comply with the provisions of Article 74 and with such relevant standards and rules as may be adopted by the International Ocean Space Institutions.

Abbreviated title

Provisions

Cross reference

3. The coastal State may remove underwater habitats, installations, equipment or devices established without its consent on or in the sea-bed of ocean space under its jurisdiction and to keep any scientific data found therein."

"Article 70

1. Floating installations of whatever nature for scientific purposes joined to the sea-bed may not be established in ocean space under the jurisdiction of a coastal State without the latter's consent.
2. The coastal State has the right to inspect and the obligation to protect floating installations of whatever nature for scientific purposes joined to the sea-bed established with its consent in ocean space under its jurisdiction. The coastal State must ensure that such installations comply with the provisions of Article 74 and with such relevant standards and rules as may be adopted by the International Ocean Space Institutions.
3. The coastal State may remove floating installations for scientific purposes joined to the sea-bed established without its consent in ocean space under its jurisdiction and to keep any scientific data found therein."

"Article 71

Authorization of the coastal State shall be obtained in respect of scientific research conducted within a belt of ocean space adjacent to the coast not exceeding twelve nautical miles in breadth measured from the applicable baseline."

"Article 72

1. In the case of scientific research conducted by surface vessels the authorization of the coastal State shall not be withheld:

Abbreviated title

Provisions

Cross reference

(a) When the request together with the research programme is submitted by a person or entity registered with the International Ocean Space Institutions six weeks before the date that it is proposed to initiate the research;

(b) When the person or entity conducting the research undertakes to provide the full data obtained and an interpretation thereof to the coastal State three months before publication and before release of such data to any other person or entity;

(c) When the possibility is offered to the coastal State to appoint its nationals to participate in the research;

(d) When the person or entity conducting the research undertakes to refrain from publishing or from releasing to other persons or entities for a period of time not exceeding five years, such scientific data as the coastal State may request;

(e) When the person or entity conducting the research expresses willingness reasonably to adjust the proposed research programme to accommodate research goals of the coastal State;

(f) When the person or entity conducting the research offers an equitable share of the samples from the proposed research to the coastal State.

2. The coastal State may refuse further access for scientific purposes to national ocean space within twelve nautical miles of its coast to persons or entities which do not comply with the obligations assumed by them when obtaining the authorization mentioned in Article 71."

Abbreviated title

Provisions

Cross reference

"Article 73

In the case of scientific research conducted by means of unanchored floating devices, the consent of the coastal State shall not be withheld:

(a) when the request together with precise information on the character of the proposed research is submitted by a person or entity registered with the International Ocean Space Institutions six weeks before the date that it is proposed to introduce the devices in the sea;

(b) when the coastal State is given the opportunity to appoint its nationals to witness the introduction of the devices into the sea;

(c) when the devices are clearly and distinctively marked and are fitted with adequate means of giving warning of their presence and do not constitute a danger to navigation or hamper other activities in ocean space;

(d) when the person or entity conducting the research undertakes to provide the full scientific data obtained and an interpretation thereof to the coastal State before publication and before release of such data to any other person or entity;

(e) when the person or entity conducting the research undertakes to refrain from publishing or from releasing to other persons or entities for a period of time not exceeding five years, such scientific data as a coastal State may request.

2. The coastal State may refuse further access for scientific purposes to national ocean space within twelve nautical miles of its coast to persons or entities which do not comply with the obligations assumed by them when obtaining the authorization mentioned in Article 71.

Abbreviated title

Provisions

Cross reference

3. The coastal State has a right to inspect and an obligation to protect unanchored floating devices for scientific purposes introduced in its national ocean space with its consent. The coastal State must ensure that such devices comply with the provisions of Article 75 of this convention."

"Article 74

18

1. The coastal State may construct, maintain and operate (a) underwater habitats, installations, equipment or devices for scientific purposes on or in the seabed of its national ocean space; (b) floating installations of whatever nature for scientific purposes joined to the sea-bed, provided that:

(a) such general and non-discriminatory standards and rules as may be adopted by the International Ocean Space Institutions are observed;

(b) no interference is caused to sea lanes necessary to international navigation;

(c) other activities in ocean space are not unreasonably hampered;

(d) appropriate safety zones are established around such habitats, installations or devices;

(e) the International Ocean Space Institutions are promptly notified of the location of such habitats, installations or devices and of the breadth of the safety zones which have been established around them;

(f) any habitats, installations, equipment or devices that are abandoned or disused are entirely removed.

2. Non-compliance with the obligations contained in the foregoing paragraph shall make the coastal State legally responsible in the event of accidents of navigation."

Abbreviated title

Provisions

Cross reference

"Article 75"

1. The coastal State may maintain and operate unanchored floating devices for scientific purposes in its national ocean space provided that such devices (a) are clearly and distinctively marked; (b) are provided with adequate means of giving warning of their presence; (c) do not constitute a danger to navigation or unreasonably hamper other activities in ocean space; (d) comply with such general and non-discriminatory standards and rules as may be adopted by the International Ocean Space Institutions.

2. Non-compliance with the obligations contained in the foregoing paragraph shall entail legal responsibility on the part of the coastal State in the event of accidents of navigation."

(46) Argentina:
Draft articles

12. It is also for the coastal State to authorize such scientific research activities as are carried on in the area; it is entitled to participate in them and to be informed of the results obtained. In such regulations as the coastal State may issue on the matter, the desirability of promoting and facilitating such activities shall be taken especially into account.

(49) Fourteen power draft:
Exclusive economic
zones

ARTICLE VII

"Without prejudice to the general jurisdictional competence conferred upon the coastal State by Article II above, the State may establish special regulations within its Economic Zone for:

- (a) Exclusive exploration and exploitation of renewable resources;
- (b) Protection and conservation of the renewable resources;
- (c) Control, prevention and elimination of pollution of the marine environment;
- (d) Scientific research."

7. COASTAL STATE PREFERENTIAL RIGHTS OR OTHER NON-EXCLUSIVE
JURISDICTION OVER RESOURCES BEYOND THE TERRITORIAL SEA

7.1 Nature, scope and characteristics

Cross reference

Abbreviated title

Provisions

(15) Japan: fisheries

Paragraphs 1.1-1.3, 3.1-3.2, 5.1-5.2, 6.1-6.2

8.4

"1.1 The proposed régime applies to fisheries on the high seas in the areas adjacent to the limits of 12 miles from the coast of a State, measured in accordance with the relevant rules of international law (such areas hereinafter shall be referred to as "adjacent waters").

1.2 All States have the right for their nationals to engage in fishing on the high seas, subject to the present régime and to their existing treaty obligations.

1.3 The proposed régime shall not affect the rights and obligations of States under existing international agreements relating to specific fisheries on the high seas."

Paragraphs 3.1-3.2

Texts reproduced under 7.3

7.3

"5.1 Right of control by coastal States

With respect to regulatory measures adopted pursuant to the present régime, those coastal States which are entitled to preferential rights, and/or special status with respect to conservation, have the right to control the fishing activities in their respective adjacent waters. In the exercise of such right, the coastal States may inspect vessels of other States and arrest those vessels violating the regulatory measures adopted. The arrested vessels shall however be promptly delivered to the flag States concerned. The coastal States may not refuse the participation of other States in controlling the operation, including boarding officials of the other States on the coastal States patrol vessels at the request of the latter States. Details of control measures shall be agreed upon among the parties concerned.

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(15) Japan: fisheries (continued)	<p>"5.2 Jurisdiction</p> <p>(a) Each State shall make it an offence for its nationals to violate any regulatory measures adopted pursuant to the present régime.</p> <p>(b) Nationals on board a vessel violating the regulatory measures in force shall be duly prosecuted by the flag State concerned.</p> <p>(c) Reports prepared by the officials of a coastal State on the offence committed by a vessel of a non-coastal State shall be fully respected by that non-coastal State, which shall notify the coastal State of the disposition of the case as soon as possible."</p> <p>Paragraphs 6.1-6.2 Texts reproduced in 7.6</p>	7.6

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(48) Afghanistan, Austria, Belgium, Bolivia, Nepal and Singapore: resources jurisdiction	Articles I and II (1) <u>"Article I</u> (1) Coastal States shall have the right to establish adjacent to the territorial sea, a ... Zone which may not extend beyond ... nautical miles from the baselines from which the breadth of the territorial sea is measured. (2) Coastal States shall have, subject to the provisions of Articles II and III, jurisdiction over the ... Zone and the right to explore and exploit all living and non-living resources therein."	7.5, 9.4, 10.2
	<u>"Article II</u> (1) Landlocked and coastal States which cannot or do not declare a ... Zone pursuant to Article I (hereinafter referred to as the Disadvantaged States), as well as natural or juridical persons under their control, shall have the right to participate in the exploration and exploitation of the living resources of the ... Zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational management and exploitation of the living resources of particular ... Zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that Zone. ..."	

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(67) Netherlands: intermediate zone	"Proposal concerning an Intermediate Zone. <u>Article 1: Limits</u>	6.1; 7.2; 7.3; 7.5; 9.2; 9.4; 10.2; 10.3; 15

The intermediate zone comprises:

(a) In so far as the living resources, with the exception of 'highly migratory oceanic fish species', are concerned, the superjacent waters contiguous to the territorial sea (12 miles) up to an outer limit of ... miles;

(b) In so far as the non-living resources are concerned, the seabed and subsoil underlying a belt of sea up to 40 miles seaward of the outer limit of the 'continental shelf'* but not exceeding the distance of ... N.M. measured from the baselines of the territorial sea.

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- * The continental shelf is understood here as the sea-bed and subsoil adjacent to the coast: 5.2
- not exceeding the 200 metres isobath or
 - underlying a belt of sea the breadth of which is 40 N.M. measured from the baselines of the territorial sea,

according to the choice between the two methods of delimitation to be made by the State concerned at the moment of ratification. Such choice shall be final and the method of delimitation shall apply to the whole of the coastline of the State concerned.

Cross reference

Abbreviated title

Provisions

(67) Netherlands:
intermediate zone
(continued)

Article 2: Issuing of licenses

All exploration for, and exploitation of, the living or non-living resources of the intermediate zone shall be licensed by the coastal State, subject to the rules and regulations established by the competent international authorities /global, regional and/or sub-regional authorities/.

Article 3: Limitation of licenses

Coastal States which have been determined to be advantaged, in accordance with the provisions of article 5, may limit the total amount of living or non-living resources which may be extracted from the intermediate zone during a specified period and reserve licenses for the option of such operators as are its own nationals and nationals of disadvantaged States, in proportions to be determined in accordance with the rules and procedures set forth in article 5.

Article 4: Limitation of disposal of a resource

The advantaged coastal state may determine that the whole or part of the living or non-living resources extracted by licensed foreign operators from the intermediate zone during a specified period, shall be offered at world market prices for processing or consumption in its territory and in the territories of the disadvantaged states in proportions to be determined in accordance with the rules and procedures set forth in article 5.

Cross reference

Abbreviated title

(67) Netherlands:
intermediate zone
(continued)

Provisions

Article 5: Determination of advantaged and
disadvantaged States

1. The proportions mentioned in articles 3 and 4 shall be determined by the competent international authority in such a manner that the sum total of the 'advantages' of States advantaged in the intermediate zone, can be shared among the disadvantaged States pro rata of the 'disadvantage' of each of them.

The rates of (dis)advantage may be determined in two phases:

- (a) The competent international authority shall determine firstly, in accordance with the provisions of paragraph 2 of this article, rates of "(dis)advantage" in terms of surface;
 - (b) The competent international authority has the power to revise from time to time the rates determined in accordance with (a), with a view to equalize possible gross disproportions among actual benefits accruing to particular States, if such disproportions result from grossly unequal distribution of resources in the respective areas of intermediate zone.
2. For the determination of the rates mentioned under (a) of the preceding paragraph the 'advantage' of a given State is the amount of surface (N.M.2) by which the actual intermediate zone of that State exceeds ... % of a theoretical surface 'A' and the 'disadvantage' of a given State is the amount of surface by which the actual intermediate zone of that State falls short of ... % of 'A'.

Cross reference

Abbreviated title

Provisions

(67) Netherlands:
intermediate zone
(continued)

'A' in relation to any State is the surface, expressed in square nautical miles, of a theoretical sea-area of a width of ... nautical miles around a theoretical circular island area equal in size to the actual total land area of that State.

Article 6: Negotiations between advantaged and disadvantaged States

2.1

1. Any disadvantaged state is entitled to enter into negotiations with any advantaged State, within groups of States to be determined by the competent international authority, in order to determine by agreement its share for the purpose of the application of articles 3 or 4.

Notification shall be made to the competent international authority of any such negotiations having been entered into and of any agreement reached. /The competent international authority shall have the power once in 20 years to revise its determination of groups of States./

2. If agreement is not reached within three years after negotiations have commenced, the competent international authority shall be requested to make recommendations to the Contracting Parties concerned.

If agreement is not reached within one year after such recommendations are made, the determination recommended by the authority shall take effect unless either Party, within 90 days thereafter, brings the matter before the Tribunal.

Cross reference

<u>Abbreviated title</u>	<u>Provisions</u>
(67) Netherlands: intermediate zone (continued)	<p><u>Article 7:</u> <u>Optional transfer of part of the intermediate zone to the competent international authority</u></p> <p>Any geographically advantaged State may decide to transfer a part of its intermediate zone equal to its 'advantage' to the competent international authority to be administered by it in accordance with articles 5 and 6.</p> <p><u>Article 8:</u> <u>Revenue sharing</u></p> <p>Any State which derives revenue from exploitation of the intermediate zone shall make available ... % of these revenues to the competent international authority."</p>

7.2. Sea-bed resources

Abbreviated title
(48) Afghanistan, Austria,
Belgium, Bolivia,
Nepal and Singapore:
Resources jurisdiction

Provisions

Cross reference

7.5

"ARTICLE III

(1) A coastal State shall make contributions to the International Authority out of the revenues^{a/} derived from exploitation of the non-living resources of its Zone in accordance with the following paragraph.

(2) The rate of contribution shall be per cent^{b/} of the revenues from exploitation carried out within forty miles or 200 metres isobath of the Zone, whichever limit the coastal State may choose to adopt, and per cent^{b/} of the revenues from exploitation carried out beyond forty miles or 200 metres isobath within the Zone.

(3) The International Authority shall distribute these contributions on the basis of equitable sharing criteria.

(67) Netherlands:
intermediate zone

Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67)

6.1; 7.1; 7.3; 7.5;
9.2; 9.4; 10.2; 10.3;
15

a/ The word "revenues" shall have to be defined.

b/ It is understood that different rates should apply to developed and developing countries.

7.3. Fisheries

Cross reference

Abbreviated title

Provisions

(7) USSR: Fisheries

Paras. 1-3 and 5-6:

"1. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), a developing coastal State may annually reserve to itself such part of the allowable catch of fish as can be taken by vessels navigating under that State's flag.

With the growth of the fishing fleet of the developing coastal State the above-mentioned part of the allowable catch of fish reserved by that State may increase accordingly.

The developing coastal State shall notify the size of the reserved part of the catch to the international fisheries organization whose competence covers the particular area, and also to States engaged in fishing in the above-mentioned areas."

8.4

"2. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles) any coastal State may annually reserve to itself such part of the allowable catch of the stock of anadromous fish spawning in its rivers as can be taken by vessels navigating under that State's flag."

8.4

"3. The part of the allowable catch of fish which is not reserved in accordance with paragraphs 1 and 2 above may be taken by vessels navigating under the flags of other States, including land-locked States, without detriment to the reproduction of the stocks of fish."

"5. In the areas referred to in this article which are not covered by the measures specified in paragraph 4, the coastal State may itself establish fishing regulatory measures on the basis of scientific findings. Such measures shall be established by the coastal State in agreement with the States also engaged in fishing in the said areas. Regulatory measures shall not discriminate in form or in substance against fishermen of any of those States."

"6. The coastal State may itself exercise control over the observance of the fishing regulatory measures initiated by it under paragraph 5. In cases where the competent authorities of the coastal State have sufficient reasons for believing that a foreign vessel engaged in

Abbreviated title

Provisions

Cross reference

fishing is violating these measures, they may stop the vessel and inspect it, and also draw up a statement on the violations. The consideration of cases which may arise in connexion with violations of the said measures by a foreign vessel, as well as the punishment of members of the crew guilty of such violations, shall be effected by the flag State of the vessel which has committed the violation. Such State shall notify the coastal State of the results of the investigation and of measures taken by it."

(11) Canada: Living resources

Paras. III, IV and V:

6.6.2; 6.6.3

"III. Special interest of the coastal State - the coastal State has a special interest in and responsibility for the conservation of the living resources of the sea adjacent to its coast and should have the authority required to manage those resources in a manner consistent with its special interest and responsibility, as well as preferential rights in the harvest of such resources.

7.5

"IV. Basic principles for coastal State management - (1) Yield from a fishery should be allocated among participants, on the basis of some appropriate formula, so that each participant may obtain his share on the most advantageous basis.

- (2) Access to a fishery should be controlled, on the basis of some appropriate formula, to ensure that no more than the maximum biological yield is taken, and that it is taken without unnecessary investments of capital and manpower.
- (3) Management must be carried out on the basis of widely recognized and internationally acceptable scientific and socio-economic criteria.
- (4) Management should provide for control of the rate of expansion of fisheries.

- (5) All fish caught should be reported and utilized.

- (6) Fisheries for human consumption should in principle take priority over competing fisheries for reduction to fish meal.

- (7) Any management regime for an internationally-exploited fishery must be prepared to report to the international community on the exercise of its management authority; appropriate dispute-settlement procedures should be provided for.

Abbreviated title

Provisions

Cross reference

- (8) All countries participating in an internationally-exploited fishery should co-operate with the designated management authority.
(9) The quality of ocean waters must be maintained."

"V. Scientific principles - (1) Stocks should be managed as individual 7.5 units.

- (2) Exploitation of unit stocks should be controlled so that production of new age groups or "recruits" is at a maximum.
(3) Each age group of a species, as it becomes available to fishing, should be fished at the point when its contribution to catches can be greatest."

(12) USA: Fisheries^{1/}

Parts I-V and Part X:

"I. Regulatory authority - Authority to regulate the living resources 8.4 of the high seas shall be determined by their biological characteristics and such authority shall be exercised so as to assure their conservation, maximum utilization and equitable allocation."

"II. Coastal and Anadromous living resources - The coastal State 8.4

shall regulate and have preferential rights to all coastal living resources off its coast beyond the territorial sea to the limits of their migratory range. The coastal State in whose fresh or estuarine waters anadromous resources (e.g. salmon) spawn shall have authority to regulate and have preferential rights to such resources beyond the territorial sea throughout their migratory range on the high seas (without regard to whether or not they are off the coast of said State).
A. The term "coastal resource" refers to all living resources off the coast of a coastal State except the highly migratory species listed in Annex A^{a/} and anadromous resources.

B. The coastal State may annually reserve to its flag vessels, in accordance with this article, that portion of such coastal and anadromous resources as they can harvest.

^{1/} See also the explanatory note on "Special considerations regarding the management of anadromous fishes and highly migratory oceanic fishes" (A/AC.138/SC.II/L.20) of 2 April 1973.

^{a/} Not reproduced.

Abbreviated title

Provisions

Cross reference

C. Such coastal and anadromous resources which are located in or migrate through waters adjacent to more than one coastal State shall be regulated by agreement among such States.

"III. Highly Migratory Oceanic resources - The highly migratory oceanic resources listed in Annex A shall be regulated by appropriate international fishery organizations.

7.5; 8.4

A. Any coastal State party, or other State party whose flag vessels harvest or intend to harvest a regulated resource, shall have an equal right to participate in such organizations.

B. No State party whose flag vessels harvest a regulated resource may refuse to co-operate with such organizations. Regulations of such organizations in accordance with this Article shall apply to all vessels fishing the regulated resources regardless of their nationality.

C. In the event the States concerned are unable to deem it unnecessary to establish an international organization the resources shall be regulated by agreement or consultation among such States.

"IV. Conservation principles - In order to assure the conservation of living marine resources, the coastal State or appropriate international organization shall apply the following principles:

7.5; 8.4

A. Allowable catch and other conservation measures shall be established which are designed, on the basis of the best evidence available, to maintain or restore the maximum sustainable yield, taking into account relevant environmental and economic factors.

B. For this purpose scientific information, catch and effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.

C. Conservation measures and their implementation shall not discriminate in form or fact against any fishermen. Conservation measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Article, of any disagreement as to their validity.

"V. Utilization and allocation - In order to assure the maximum utilization and equitable allocation of coastal and anadromous resources, the coastal State shall apply the following principles:

7.5; 9.4

Abbreviated title

Provisions

Cross reference

A. The coastal State may reserve to its flag vessels that portion of the allowable annual catch they can harvest.

B. The coastal State shall provide access by other States, under reasonable conditions, to that portion of the resources not fully utilized by its vessels on the basis of the following priorities:

(1) States that have traditionally fished for a resource, subject to the conditions of sub-paragraph C;

(2) other States in the region, particularly landlocked States and other States with limited access to the resources, with whom joint or reciprocal arrangements have been made; and

(3) all States, without discrimination among them.

C. Whenever necessary to accommodate the allocations to the coastal States traditional fishing may be reduced, without discrimination among those States that have traditionally fished for a resource, in the following manner:

(Formula to be negotiated within Sub-Committee II which takes into account the interests of traditional fishing States.)

States whose fishermen harvest a resource under regulation by a coastal State may be required, without discrimination, to pay reasonable fees to defray their share of the cost of such regulation.

"X. Other uses - The exploitation of the living resources shall be conducted with reasonable regard for other activities in the marine environment." 8.4

(15) Japan: Fisheries

Paras. 2.1-2.4 and 3.1-3.2:

"2.1 Objective of Conservation measures - The objective of conservation measures is to achieve the maximum sustainable yields of fishery resources and thereby to secure and maintain a maximum supply of food and other marine products. 7.5

2.2 Obligations to adopt conservation measures - (1) In cases where nationals of one State are exclusively engaged in fishing a particular stock of fish, that State shall adopt, when necessary, appropriate conservation measures.

In cases where nationals of two or more States are engaged in fishing a particular stock of fish, these States shall, at the request of any of them, negotiate and conclude arrangements which will provide for

Abbreviated title

Provisions

Cross reference

appropriate conservation measures. These conservation measures shall be consistent with the objective of conservation referred to in para. 2.1 above and shall be adopted having regard to the principles referred to in para. 2.3 below.

(2) In cases where conservation measures have already been adopted by States with respect to a particular stock of fish which is exploited by their nationals, a newcomer State shall adopt its own conservation measures which should be as restrictive as the existing measures until new arrangements are concluded among all the States concerned. If the existing conservation measures include a catch limitation or some other regulations not permitting nationals of the newcomer State to engage in fishing the stock of fish concerned, the States applying the existing conservation measures shall immediately enter into negotiation with the newcomer State for the purpose of concluding new arrangements. Pending such arrangements, nationals of the newcomer State shall not engage in fishing the stock concerned.

(3) States shall make use of the international or regional fishery organizations, as far as possible, to adopt appropriate conservation measures.

2.3 Basic principles relating to conservation measures

(1) Conservation measures must be adopted on the basis of the best scientific evidence available. If the States concerned cannot reach agreement on the assessment of the conditions of the stock to which conservation measures are to be applied, they shall request an appropriate international body or other impartial third party to undertake the assessment. In order to obtain the fairest possible assessment of the stock conditions, the States concerned shall co-operate in the establishment of regional institutions for surveying and research into fishery resources.

(2) No conservation measure shall discriminate in form or fact between fishermen of one State from those of other States.

(3) Conservation measures shall be determined, to the extent possible, on the basis of the allowable catch estimated with respect to the individual stocks of fish. The foregoing principle however, shall not preclude conservation measures from being determined on some other bases in cases where, due to lack of sufficient data, an estimate of the allowable catch is not possible with any reasonable degree of accuracy.

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Cross reference

- (4) No State can be exempted from the obligation to adopt conservation measures on the ground that sufficient scientific findings are lacking.
- (5) The conservation measures adopted shall be designed so as to minimize interference with fishing activities relating to stocks of fish, if any, which are not the object of such measures.
- (6) Conservation measures and the data on the basis of which such measures are adopted shall be subject to review at appropriate intervals.
- 2.4 Special status of coastal States in conservation of resources
- A coastal State shall be recognized as having special status with respect to the conservation of fishery resources in its adjacent waters. Thus, the coastal State will have the right of participating, on an equal footing, in any survey on fishery resources conducted in its adjacent waters for conservation purposes, whether or not nationals of that coastal State are actually engaged in fishing the particular stocks concerned. Non-coastal States conducting the survey shall, at the request of the coastal State, make available to the coastal State the findings of their surveys and researches concerning such stocks. Also, except for interim measures (6.1 below), no conservation measure may be adopted with respect to any stock of fish, without the consent of the coastal State whose nationals are engaged in fishing the particular stock concerned (or the majority of the coastal States in cases where there are three or more such coastal States).
- A coastal State shall at the same time have the obligation to take, in co-operation with other States, necessary measures with a view to maintaining the productivity of fishery resources in its adjacent waters at a level that will enable an effective and rational utilization of such resources.

7.1

- 3.1 Preferential rights - To the extent consistent with the objective of conservation, a coastal State shall have a preferential right to ensure adequate protection to its coastal fisheries conducted in its adjacent waters.
- (i) In the case of a developing coastal State:
The coastal State is entitled annually to reserve for its flag vessels that portion of the allowable catch of a stock of fish it can harvest on the basis of the fishing capacity of its coastal fisheries. In determining the part of the allowable catch to be reserved for the developing coastal State, the rate of growth of the fishing capacity of that State shall be

Abbreviated titleProvisionsCross reference

duly taken into account until it has developed that capacity to the extent of being able to fish for a major portion of the allowable catch of the stock of fish.

(ii) In the case of a developed coastal State:

The coastal State is entitled annually to reserve for its flag vessels that portion of the allowable catch of a stock of fish which is necessary to maintain its locally conducted small-scale coastal fisheries. The interests of traditionally established fisheries of other States shall be duly taken into account in determining the catch to be reserved for such small-scale coastal fishers.

3.2 Implementation of preferential rights

(1) Measures to implement the preferential rights shall be determined by agreement among the coastal and non-coastal States concerned on the basis of the proposals made by the coastal State. For the purpose of such proposals, the coastal State may seek technical assistance from the Food and Agriculture Organization of the United Nations or such other appropriate organs.

(2) The size of the preferential right of a coastal State shall be fixed within the limit of the allowable catch of the stock of fish subject to allocation, if the allowable catch for that stock is already estimated for conservation purposes. In cases where the estimate of the allowable catch is not available, the coastal and non-coastal States concerned shall agree on necessary measures in a manner which will best enable the coastal State to benefit fully from its preferential right.

(3) The regulatory measures adopted to implement the preferential right of a coastal State may include catch allocation (quota by country) and/or such other supplementary measures that will be made applicable to vessels of non-coastal States engaged in fishing in the adjacent waters of the coastal State, including:

- (a) the establishment of open and closed seasons during which fish may or may not be harvested,
- (b) the closing of specific areas to fishing,
- (c) the regulation of gear or equipment that may be used,
- (d) the limitation of catch of a particular stock of fish that may be harvested.

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Cross reference

- (4) The regulatory measures adopted shall be so designed as to minimize interference with the fishing of non-coastal States directed to stocks of fish, if any, which are not covered by such measures.
- (5) Non-coastal States shall co-operate with coastal States in the exchange of available scientific information, catch and effort statistics and other relevant data.
- (6) In cases where nationals of two or more coastal States which are entitled to preferential rights are engaged in fishing a common stock of fish, no coastal States may invoke their preferential right with respect to such stock without the consent of the other coastal State or States concerned. In such a case, those coastal States shall enter into regional consultations with the other States concerned with a view to implementing their preferential rights.
- (7) The measures adopted under this paragraph shall be subject to review at such intervals as may be agreed upon by the States concerned."

(16) Moscow

Declaration

Para. 5:

"5. In view of the different economic and technological capacities of coastal and other developing States and of countries which engage in long-distance fishing in the same areas as those States, developing countries should be given certain preferential rights enabling them to develop their national fishing industry and overcome their technological backwardness."

6.6.2; 7.5

(48) Afghanistan, Austria,
Belgium, Bolivia,
Nepal and Singapore:
Resources jurisdiction

Article II, para. (2):

9.4; 10.2

"(2) In the Zone the coastal State may annually reserve for itself and such other Disadvantaged States as may be exercising the right under the preceding paragraph, that part of the maximum allowable yield, as determined by the relevant international fisheries organization, which corresponds to the harvesting capacity and needs of these States."

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(63) Ecuador, Panama and Peru: fisheries	Part I, Articles (A), (B), (C), (D), (E), (F) - Texts reproduced in 2.1 under (63).	2.1; 6.6
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67).	6.1; 7.1; 7.2; 7.5; 9.2; 9.4; 10.2; 10.3; 15
(68) Zaire: fishing	<u>"Article 3</u>	

Neighbouring developing coastal States in the same region shall recognize traditional fishing rights belonging to one another and acquired before the establishment of the exclusive economic zone under this Convention, on the same terms as before the entry into force of this Convention and without prejudice to the regulations of the coastal State concerning the conservation, utilization and management of resources."

7.4 Prevention and control of pollution and other hazards
to the marine environment

7.5 International Co-operation in the study and
rational exploitation of marine resources

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(7) USSR: Fisheries	Para. 4	
	"4. In those of the areas referred to above where fishing regulatory measures are carried out <u>through international fisheries organizations</u> , such regulatory régime shall remain effective in the future.	8.4
	Control over the observance of the fishing regulatory measures in such areas shall continue to be exercised on the basis of the provisions adopted within the framework of the respective international fisheries organizations."	
(11) Canada: Living resources	Parts IV (1), (3) and (7) - (8)	7.3
	"(1) Yield from a fishery should be allocated among participants, on the basis of some appropriate formula, so that each participant may obtain his share on the most advantageous basis.	
	(3) Management must be carried out on the basis of widely recognized and internationally acceptable scientific and socio-economic criteria.	
	(7) Any management régime for an internationally-exploited fishery must be prepared to report to the international community on the exercise of its management authority; appropriate dispute-settlement procedures should be provided for.	
	(8) All countries participating in an internationally-exploited fishery should co-operate with the designated management authority.	

Abbreviated title

Provisions

Cross reference

Parts IV and VI

(12) USA: Fisheries^{1/}

"IV. Conservation Principles

"In order to assure the conservation of living marine resources, the coastal State or appropriate international organization shall apply the following principles:

8.4

A. Allowable catch and other conservation measures shall be established which are designed, on the basis of the best evidence available, to maintain or restore the maximum sustainable yield, taking into account relevant environmental and economic factors.

B. For this purpose scientific information, catch and effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.

C. Conservation measures and their implementation shall not discriminate in form or fact against any fishermen. Conservation measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Article, of any disagreement as to their validity.

VI. Notification Consultation

The coastal State shall give to all affected states timely notice of any conservation, utilization and allocation regulations, prior to their implementation, and shall consult with other States concerned."

(15) Japan: Fisheries

Paras. 2.1-2.4, 3.3, 4.1, 7.1 and 7.2.

Texts of paras. 2.1-2.4 reproduced in 7.3.

^{1/} See also the explanatory note on "Special considerations regarding the management of anadromous fishes and highly migratory oceanic fishes" (A/AC.138/SC.II/L.20) of 2 April 1973.

Abbreviated title

Provisions

Cross reference

"3.3 International Co-operation

In order to assist in the development of the fishing capacity of a developing coastal State and thereby to facilitate the full enjoyment of its preferential right, international co-operation shall be carried out in the field of fisheries and related industries between the developing coastal State and other fishing States in concluding agreement on the preferential right of that developing coastal State.

Regulation of Highly Migratory Stocks

4.1 No special status in the conservation of resources (2.4) and no preferential rights (3.1) shall be recognized to a coastal State in respect of highly migratory, including anadromous, stocks of fish. The conservation and regulation of such stocks shall be carried out pursuant to international consultations or agreements in which all interested States shall participate, or through the existing international or regional fishery organizations should such be the case.

Other Provisions

7.1 Co-operation with developing States

For the purpose of promoting the development of fishing industries and the domestic consumption and exports of fishery products of developing States, including land-locked States, developed non-coastal States shall co-operate with developing States with every possible means in such fields as survey of fishery resources expansion of fishing capacity, construction of storage and processing facilities and improvements in marketing systems.

7.2 Co-operation with regional fishery commissions

Co-operation between coastal and non-coastal States under the present régime shall be carried out, as far as possible, through regional fishery commissions. For this purpose, the States concerned

Provisions

Abbreviated title

shall endeavour to strengthen the existing commissions and shall co-operate in establishing new commissions whenever desirable and feasible."

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| (16) Moscow Declaration | Para. 2: | 7.3; 8.4 |
| <p>"2. The socialist States signatories of this declaration advocate rational and scientifically-based fishing and support proposals for more effective scientific research and regulation of fishing on the high seas by international fishery organizations.</p> | | |

Existing systems of international regulation of fishing must be continuously improved. The role of regional international fishing organizations should be increased, and their functions broadened; the exchange of scientific, technical and fishery information should be improved with a view to the objective assessment of stocks of fish; and all interested States, without exception, should be given the opportunity to participate in such organizations, on the principle of sovereign equality. It is necessary to give international organizations functions of international verification of compliance with fishing regulations, in view of the fact that such a measure will promote the more effective protection of fishery resources and their maintenance at the maximum sustainable level."

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|---|-----------------------------------|---------------------------|
| (28) OAU Declaration | Part G, para. 14, last paragraph: | See 6.9 for complete text |
| <p>"14. States agree to promote international co-operation in marine scientific research in areas beyond limits of national jurisdiction. Such scientific research shall be carried out in accordance with rules and procedures laid down by the international machinery."</p> | | |

- | | |
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| (48) Afghanistan,
Austria, Belgium,
Bolivia, Nepal,
Singapore:
resources
jurisdiction | Articles II (1) (5) and III

"ARTICLE II

(1) Landlocked and coastal States which cannot or do not declare a Zone pursuant to Article I (hereinafter referred to as the |
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Abbreviated title

Provisions

Cross reference

Disadvantaged States), as well as natural or juridical persons under their control, shall have the right to participate in the exploration and exploitation of the living resources of the Zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational management and exploitation of the living resources of particular Zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that Zone.

7.1; 9.4; 10.

(5) A developed coastal State, which establishes a Zone pursuant to Article I, paragraph 1, shall contribute per cent of its revenues a/ derived from the exploitation of the living resources in that Zone to the International Authority. Such contributions shall be distributed by the International Authority on the basis of equitable sharing criteria."

9.4; 10.2

"ARTICLE III

(1) A coastal State shall make contributions to the International Authority out of the revenues a/ derived from exploitation of the non-living resources of its Zone in accordance with the following paragraph.

7.2

(2) The rate of contribution shall be per cent b/ of the revenues from exploitation carried out within forty miles or 200 metres isobath of the Zone, whichever limit the coastal State may choose to adopt, and per cent b/ of the revenues from exploitation carried out beyond forty miles or 200 metres isobath within the Zone.

(3) The International Authority shall distribute these contributions on the basis of equitable sharing criteria."

a/ The word "revenues" shall have to be defined.

b/ It is understood that different rates should apply to developed and developing countries.

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67).	6.1; 7.1; 7.2; 7.3; 9.2; 9.4; 10.2; 10.3; 15

7.6. Settlement of disputes

Abbreviated title

Provisions

Cross reference

(7) USSR Fisheries

Para. 7

21

"7. Disputes between States on matters connected with the application of the provisions of this article may, at the request of one of the parties to the dispute, be settled by arbitration unless the parties agree to settle it by other means of pacific settlement provided for in Article 33 of the United Nations Charter."

(12) USA: Fisheries

Part IX

"IX. Dispute settlement

21

Any dispute which may arise between States under this article shall, at the request of any of the parties to the dispute, be submitted to a special commission of five members unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations. The commission shall proceed in accordance with the following provisions.

"A. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within two months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon request of any State party to the dispute, be named by the Secretary-General of the United Nations, within a further two-month period, in consultation with the States involved and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the

Abbreviated title

(12) USA: Fisheries
(continued)

Provisions

nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

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

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

"D. Pending the final award by the special commission, measures in dispute relating to conservation shall be applied; the commission may decide whether and to what extent other measures shall be applied pending its final award.

"E. The special commission shall render its decision, which shall be binding upon the parties, within a period of five months from the time it is appointed unless it decides, in the case of necessity to extend the time limit for a period not exceeding two months.

"F. The special commission shall, in reaching its decision, adhere to this article and to any agreements between the disputing parties implementing this article.

Cross reference

Abbreviated title

(15) Japan: Fisheries

Provisions

Paras.6.1-6.2

"6.1 Interim measures

If the States concerned fail to reach agreement within six months of negotiations on measures concerning preferential rights under para. 3.1 and/or on arrangements concerning conservation measures under para. 2.2, any of the States may initiate the procedure for the settlement of disputes. Pending the settlement of disputes, the States concerned shall adopt interim measures. Such interim measures shall in no way prejudice the respective positions of any States concerned with respect to the dispute in question.

(a) In cases where the limitation of catch is disputed, each State in dispute shall take necessary measures to ensure that its catch of the stock concerned will not exceed on an annual basis its average annual catch of the preceding [five] year period.

(b) In cases where some other factors are in dispute, e.g. fishing grounds, fishing gear, fishing seasons, in connexion with measures to implement the preferential right of a coastal State, or with arrangements concerning conservation measures, the other States concerned shall adopt the latest proposals of the coastal State with respect to the matter in dispute. However, the other States shall be exempted from such obligation if the adoption of the proposal of the coastal State would seriously affect either its catch permitted under sub-para. (a) above, or its catch of some other stock not related to the preferential right of a coastal State which it is substantially exploiting. In such a case, those other States shall take all possible measures which they consider appropriate for the protection of the coastal fisheries concerned.

Cross reference

Texts of paras.
2.2 and 3.1
reproduced in
7.3 and 7.5

Abbreviated title

(15) Japan: Fisheries
(continued)

Provisions

- (c) Any of the parties to the dispute may request the special Commission to decide on provisional measures regarding the matter in dispute.
- (d) Each State shall inform the special Commission established in accordance with para. 6.2 as well as all other States concerned of the specific interim measures it has taken in accordance with any of the preceding provisions."

Cross reference

"6.2 Procedure for disputes settlement (special commission)

Any dispute which may arise between States under the present régime shall be referred by any of the States concerned to a special Commission of five members in accordance with the following procedure, unless the parties concerned agree to settle the dispute by some other method provided for in Article 33 of the Charter of the United Nations.

- (a) Not more than two members may be named from among nationals of the parties, one each from among nationals of the coastal and the non-coastal State respectively.
- (b) Decisions of the special Commission shall be by majority vote and shall be binding upon the parties.
- (c) The special Commission shall render its decision within a period of six months from the time it is constituted.
- (d) Notwithstanding the interim measures taken by the parties under para. 6.1, the special Commission may, at the request of any of the parties or at its own initiative, decide on provisional measures to be applied if the Commission deems it necessary. The Commission shall render its final decision within a further period of six months from its decision on such provisional measures.

7.7. Other rights and obligations

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(12) USA: Fisheries	"Part VIII: <u>ENFORCEMENT</u>	

"Actions under this paragraph shall be taken in such a manner as to minimize interference with fishing and other activities in the marine environment.

"A. Coastal State - the coastal State may inspect and arrest vessels for fishing in violation of its regulations. The coastal State may try and punish vessels for fishing in violation of its regulations, provided that where the state of nationality of a vessel has established procedures for the trial and punishment of violations of coastal State fishing regulations adopted in accordance with this article, an arrested vessel shall be delivered promptly to duly authorized officials of the State of nationality for trial and punishment, who shall notify the coastal State of the disposition of the case within six months.

"B. International fisheries organization - Each State party to an international organization shall make it an offence for its flag vessels to violate the regulations adopted by such organization in accordance with this article. Officials authorized by the appropriate international organization, or of any State so authorized by the organization, may inspect and arrest vessels for violating the fishery regulations adopted by such organizations. An arrested vessel shall be promptly delivered to the duly authorized officials of the flag State. Only the flag State of the offending vessels shall have jurisdiction to try the case or impose any penalties regarding the violation of fishery regulations adopted by international organizations pursuant to this article. Such State has the responsibility of notifying the enforcing organization within a period of six months of the disposition of the case."

8.2

8. HIGH SEAS

8.1. Nature and characteristics

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(10) Santo Domingo Declaration	High Seas: "That waters situated beyond the outer limits of the patrimonial sea constitute an international area designated as high seas, in which there exists freedom of navigation, of overflight and of laying submarine cables and pipelines. Fishing in this zone should be neither unrestricted nor indiscriminate and should be the subject of adequate international regulation, preferably of world-wide scope and general acceptance."	8.3, 8.4

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(36) Ecuador, Panama and Peru: draft articles	"Part III: International Seas <u>Article 17</u> The term 'international seas' shall denote that part of the sea which is not subject to the sovereignty and jurisdiction of coastal States. <u>Article 18</u> The international seas shall be open to all States, whether coastal or land-locked, and their use shall be reserved for peaceful purposes." (1) The international sea area denotes all the sea and ocean space beyond the limits of national jurisdiction. The international sea area and its resources are, in principle, jointly owned by the people of all countries.	8.3
(55) China: international sea area		

<u>Abbreviated title</u>	8.2 <u>Rights and duties of States</u>	<u>Provisions</u>	<u>Cross reference</u>
(12) USA: Fisheries	Part VIII: "Actions under this paragraph shall be taken in such a manner as to minimize interference with fishing and other activities in the marine environment."	A. Coastal State) B. International fisheries) organization) See 7.7 for complete reproduction of text	Relevant texts of the proposal reproduced in 7.3 and 7.5
(30) Belgium: artificial islands and installations	Article (e)		Relevant text of the proposal reproduced in 18
(36) Ecuador, Panama and Peru draft articles	Part III: International seas <u>Article 22</u>	All States shall be obliged to comply with international regulations designed to prevent, reduce or eliminate any damage or risks arising from pollution or other effects detrimental or dangerous to the ecological system of the international seas, water quality and use, living resources and human health.	
	... (Complementary provisions on pollution)		
	<u>Article 23</u>	Scientific research in the international seas shall be open to any State and shall be promoted and facilitated under forms of co-operation and assistance which permit the participation of all States, irrespective of their level of development or of whether they are coastal or land-locked.	
	... (Complementary provisions on scientific research)"		

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(55) China: international sea area	<p>(3) Uses of the international sea area shall not prejudice the legitimate interests of other States and the common interests of all States.</p> <p>(4) Subject to the provisions of paragraph (3) above, ships and aircraft of all States have the right of navigation and overflight in the international sea area and in the airspace thereabove, provided that they fly the flag or show the insignia of the State to which they belong.</p> <p>(5) Subject to the provisions of paragraph (3) above, all States have the right to lay cables and pipelines on the sea-bed of the international sea area.</p>	

8.3 Question of the freedom of the high seas and their regulation

Cross reference

Provisions

(10) Santo Domingo Declaration

High Seas:

"That water situated beyond the outer limits of the patrimonial sea constitute an international area designated as high seas, in which there exists freedom of navigation, of overflight and of laying submarine cables and pipelines. Fishing in this zone should be neither unrestricted nor indiscriminate and should be the subject of adequate international regulation, preferably of world-wide scope and general acceptance."

8.1; 8.3

(25) Colombia, Mexico and
Venezuela: draft articles

Article 16:

"Freedom of navigation, overflight and the laying of submarine cables and pipelines shall exist in the high seas. Fishing in this zone shall be neither unrestricted nor indiscriminate."

8.4

(36) Ecuador, Panama and Peru:
draft articles

"Part III. International Seas. Article 18.

The international seas shall be open to all States, whether coastal or land-locked, and their use shall be reserved for peaceful purposes

Article 19.

The following freedoms shall be exercised on the international seas:

- (1) freedom of navigation;
- (2) freedom of overflight;
- (3) freedom to lay submarine cables and pipelines;
- (4) freedom to emplace artificial islands and other installations permitted under international law, without prejudice to the provisions of article 24;
- (5) freedom of fishing, subject to the conditions laid down in article 20;
- (6) freedom of scientific research, subject to the conditions laid down in article 23.

These freedoms shall be exercised by any State, with due consideration for the interests of other States in the exercise of the same freedom.
... (Complementary provisions)"

8.4 Management and conservation of living resources

Provisions

Abbreviated title

(7) USSR: Fisheries

Paras. 1-4:

"1. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), a developing coastal State may annually reserve to itself such part of the allowable catch of fish as can be taken by vessels navigating under that State's flag.

With the growth of the fishing fleet of the developing coastal State the above-mentioned part of the allowable catch of fish reserved by that State may increase accordingly.

The developing coastal State shall notify the size of the reserved part of the catch to the international fisheries organization whose competence covers the particular area, and also to States engaged in fishing in the above-mentioned areas.

2. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), any coastal State may annually reserve to itself such part of the allowable catch of the stock of anadromous fish spawning in its rivers as can be taken by vessels navigating under that State's flag.

3. The part of the allowable catch of fish which is not reserved in accordance with paragraphs 1 and 2 above may be taken by vessels navigating under the flags of other States, including land-locked States, without detriment to the reproduction of the stocks of fish.

4. In those of the areas referred to above where fishing regulatory measures are carried out through international fisheries organizations, such regulatory régime shall remain effective in the future.

7.3

(7)

Provisions

Abbreviated title

(7) USSR: Fisheries

Paras. 1-4:

"1. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), a developing coastal State may annually reserve to itself such part of the allowable catch of fish as can be taken by vessels navigating under that State's flag.

With the growth of the fishing fleet of the developing coastal State the above-mentioned part of the allowable catch of fish reserved by that State may increase accordingly.

The developing coastal State shall notify the size of the reserved part of the catch to the international fisheries organization whose competence covers the particular area, and also to States engaged in fishing in the above-mentioned areas.

2. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), any coastal State may annually reserve to itself such part of the allowable catch of the stock of anadromous fish spawning in its rivers as can be taken by vessels navigating under that State's flag.

3. The part of the allowable catch of fish which is not reserved in accordance with paragraphs 1 and 2 above may be taken by vessels navigating under the flags of other States, including land-locked States, without detriment to the reproduction of the stocks of fish.

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Provisions

Abbreviated title

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With the growth of the fishing fleet of the developing coastal State the above-mentioned part of the allowable catch of fish reserved by that State may increase accordingly.

The developing coastal State shall notify the size of the reserved part of the catch to the international fisheries organization whose competence covers the particular area, and also to States engaged in fishing in the above-mentioned areas.

2. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), any coastal State may annually reserve to itself such part of the allowable catch of the stock of anadromous fish spawning in its rivers as can be taken by vessels navigating under that State's flag.

3. The part of the allowable catch of fish which is not reserved in accordance with paragraphs 1 and 2 above may be taken by vessels navigating under the flags of other States, including land-locked States, without detriment to the reproduction of the stocks of fish.

4. In those of the areas referred to above where fishing regulatory measures are carried out through international fisheries organizations, such regulatory régime shall remain effective in the future.

7.3

Cross reference

Provisions
Cross reference

Abbreviated title

(7) USSR: Fisheries
(continued)

Control over the observance of the fishing regulatory measures in such areas shall continue to be exercised on the basis of the provisions adopted within the framework of the respective international fisheries organizations."

(10) Santo Domingo
Declaration

High seas:

"That waters situated beyond the outer limits of the patrimonial sea constitute an international area designated as high seas, in which there exists freedom of navigation, of overflight and of laying submarine cables and pipelines. Fishing in this zone should be neither unrestricted nor indiscriminate and should be the subject of adequate international regulation, preferably of world-wide scope and general acceptance."

8.1; 8.3

(12) USA: Fisheries

Parts I, III, IV, VI, VII and X:

"I. Regulatory authority - Authority to regulate the living resources of the high seas shall be determined by their biological characteristics and such authority shall be exercised so as to assure their conservation, maximum utilization and equitable allocation.

7.3

"III.. Highly migratory oceanic resources^{1/} - The highly migratory oceanic resources listed in Annex A shall be regulated by appropriate international fishery organizations.

7.3; 7.5

A. Any coastal State party, or other State party whose flag vessels harvest or intend to harvest a regulated resource, shall have an equal right to participate in such organizations.

1/ See "Special considerations regarding the Management of anadromous fishes and highly migratory oceanic fishes": Working paper submitted by USA (A/AC.138/SC.II/L.20 of 2 April 1972).

Abbreviated title

(12) USA: Fisheries
(continued)

Provisions

B. No State party whose flag vessels harvest a regulated resource may refuse to co-operate with such organizations. Regulations of such organizations in accordance with this Article shall apply to all vessels fishing the regulated resources regardless of their nationality.

C. In the event the States concerned are unable or deem it unnecessary to establish an international organization the resources shall be regulated by agreement or consultation among such States.

"IV. Conservation principles - In order to assure the conservation of living marine resources, the coastal State or appropriate international organization shall apply the following principles:

A. Allowable catch and other conservation measures shall be established which are designed, on the basis of the best evidence available, to maintain or restore, the maximum sustainable yield, taking into account relevant environmental and economic factors.

B. For this purpose scientific information, catch and effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.

C. Conservation measures and their implementation shall not discriminate in form or fact against any fishermen. Conservation measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Article, of any disagreement as to their validity.

"VI. Notification consultation - The coastal State shall give to all affected States timely notice of any conservation, utilization and allocation regulations, prior to their implementation, and shall consult with other States concerned.

Cross reference

7.5; 8.4

7.5

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(12) USA: Fisheries (continued)	<p>"VII. <u>Technical assistance</u> - An international register of independent fisheries experts shall be established and maintained by the Food and Agriculture Organization of the United Nations. Any developing State party to this convention requiring assistance may select an appropriate number of such experts to serve as a fishery management advisory group to that State.</p> <p>"X. <u>Other uses</u> - The exploitation of the living resources shall be conducted with reasonable regard for other activities in the marine environment."</p>	7.3
(15) Japan: fisheries	<p>Paras. 1.1 - 1.3:</p> <p>"1.1 The proposed régime applies to fisheries on the high seas in the areas adjacent to the limit of twelve miles from the coast of a State, measured in accordance with the relevant rules of international law (such areas hereinafter shall be referred to as 'adjacent waters').</p> <p>"1.2 All States shall have the right for their nationals to engage in fishing on the high seas, subject to the present régime and to their existing treaty obligations.</p> <p>"1.3 The proposed régime shall not affect the rights and obligations of States under existing international agreement relating to specific fisheries on the high seas."</p>	7.1

Abbreviated title

(16) Moscow Declaration

Provisions

Paras. 1, 2 and 6-7:

"1. The co-operation of all interested States in studying and regulating activity relating to the living resources of the sea is an essential condition for their rational use and for increasing the yield of fish from the seas and oceans. However, the partitioning among States of a substantial part of biologically interrelated areas of the high seas through the establishment by coastal States of special zones of great width (for example, more than 12 miles) and the proclamation of exclusive rights of coastal States over constantly migrating shoals of fish would make this task impossible to fulfil.

"2. The socialist States signatories of this declaration advocate rational and scientifically-based fishing and support proposals for more effective scientific research and regulation of fishing on the high seas by international fishery organizations.

Existing systems of international regulation of fishing must be continuously improved. The role of regional international fishing organizations should be increased, and their functions broadened; the exchange of scientific, technical and fishery information should be improved with a view to the objective assessment of stocks of fish; and all interested States, without exception, should be given the opportunity to participate in such organizations, on the principle of sovereign equality. It is necessary to give international organizations functions of international verification of compliance with fishing regulations, in view of the fact that such a measure will promote the more effective protection of fishery resources and their maintenance at the maximum sustainable level.

Cross reference

6.6.1

7.3

Cross reference

Provisions

Abbreviated title

(16) Moscow Declaration
(continued)

"6. Firmly convinced of the need for a speedy solution of the problem of full utilization of the living resources of the seas and oceans on a rational basis and in the common interests of all peoples of the world, the socialist countries signing this declaration consider that such a solution can be found on the basis of a reasonable combination, through the international regulation of fishing, of the interests of coastal States and of countries which engage in long-distance fishing operations, and not by the adoption of unilateral measures by individual countries.

"7. The living resources of the seas and oceans must become a constant source for improving the well-being and raising the standards of living of the peoples of our planet and be of benefit to all mankind."

(25) Colombia, Mexico and
Venezuela: draft
articles

Article 17:

"The coastal State has a special interest in maintaining the productivity of the living resources of the sea in an area adjacent to the patrimonial sea."

(28) OAU Declaration

Part E, (Fishing Activities in the High Seas) para. 12:S.

"That the African State recognize that fishing activities in the high seas have a direct effect on the fisheries within the territorial sea and in the economic zone. Consequently, such activities must be regulated especially having regard to the highly migratory and anadromous fish species. The African States therefore favour the setting up of an international sea fisheries régime or authority with sufficient powers to make States comply to widely accepted fisheries management principles or alternatively, the strengthening of the existing FAO Fisheries Commissions or other fisheries regulatory bodies to enable them to formulate appropriate regulations applicable in all the areas of the high seas."

Abbreviated title

(36) Ecuador, Panama and
Peru: draft
articles

Provisions

"Part III: International seas.

Article 20.

1. Fishing and hunting in the international seas shall be subject to regulations of a world-wide and regional nature.

2. The aforesaid activities shall be carried out by techniques and methods which do not jeopardize adequate conservation of the renewable resources of the international seas.

Article 21.

The coastal State has a special interest in maintaining the productivity of renewable resources in any part of the international seas adjacent to the area subject to its sovereignty and jurisdiction.

(47) Canada, India, Kenya,
Senegal, Sri Lanka:
Draft articles on
Fisheries

"ARTICLE 8

A coastal State has a special interest in the maintenance of the productivity of the living resources of the area of the sea adjacent to the exclusive fishery zone, and may take appropriate measures to protect this interest. A coastal State shall enjoy preferential rights to the resources of this area and may reserve for its nationals a portion of the allowable catch of these resources corresponding to its harvesting capacity."

"ARTICLE 9

Regulations may be made on a regional basis for the exploration, exploitation, conservation and development of the living resources of the area of the sea outside the limits of the exclusive fishery zone, where these resources are of limited migratory habits and breed, feed and survive on the resources of the region. The States of the region may establish these regulations by entering into an agreement or convention between themselves, or request the Authority

Cross reference

Abbreviated title
(47) Canada, India, Kenya,
Senegal, Sri Lanka:
Draft articles on
Fisheries (continued)

Provisions

designated for the purpose by the Conference on the Law of the
Sea to formulate these regulations for the region subject
to ratification by them."

ARTICLE 10

In respect of fisheries of highly migratory habits outside
the limits of the exclusive fishery zone, regulations for
their exploration, exploitation, conservation and development
shall be made by the Authority designated for the purpose
by the Conference on the Law of the Sea."

6.6

Cross reference

Cross reference

Abbreviated title

Provisions

(55) China:
international sea
area

(6) Fishing in the international sea area shall be properly regulated to prohibit indiscriminate fishing and other violations of rules and regulations for the conservation of fishery resources.

Pending the establishment of a unified international fishery organization, States of a given sea area may set up a regional committee to work out appropriate rules and regulations for the regulation of fishing and the conservation of marine living resources in the international sea area. Fishing vessels of States of other regions may enter the said region for fishing activities provided they comply with the relevant rules and regulations of the region.

(63) Ecuador, Panama
and Peru:
fisheries

(II) Fisheries in international seas

Article G

Fishing and marine hunting activities in the international seas shall be conducted in conformity with the articles of this Convention and with any agreements that are concluded at the world or regional level.

Article H

1. Regulations adopted to regulate fishing and hunting in the international seas shall ensure the conservation and rational utilization of living resources and the equitable participation of all States in their exploitation, with due regard to the special needs of the developing countries, including those of the land-locked countries.

Cross reference

Provisions

Abbreviated title

- (63) Ecuador, Panama
and Peru:
fisheries
(continued)
2. Such regulations shall establish conditions and methods of fishing and hunting which prevent the indiscriminate exploitation of species and avert the danger of their extinction.

Article I

The coastal State shall enjoy preferential rights to exploit living resources in a sector of the sea adjacent to the zone under its sovereignty and jurisdiction, and may reserve to itself or its nationals a part of the permissible catch of such resources.

Article J

With regard to the living resources of an area of the sea situated beyond the limits of the zones of sovereignty and jurisdiction of two or more States, which breed, feed and live by reason of the resources of that area, the States concerned may agree among themselves on appropriate regulations for the exploration, conservation and exploitation of such resources.

Article K

States shall ensure that the vessels of their flag comply with the fishing and hunting regulations applicable in the international seas; and they shall punish those responsible for any breach that may come to their notice.

Article L

Where a State has good reason to believe that vessels of the flag of another State have violated fishing and

Cross reference

Provisions

Abbreviated title

(63) Ecuador, Panama and Peru: fisheries (continued)

hunting regulations applicable to the international seas, the former State may request the flag State to take the necessary steps to punish those responsible.

Article M

21

Any dispute relating to the interpretation or application of articles G to L of this Convention and of any international or regional regulations that may be adopted, or in respect of fishing and hunting activities in the international sea, shall be submitted to the procedures for peaceful settlement provided for in the Convention.

8.5 Slavery, piracy and drags

Provisions

Cross reference

Abbreviated title

8.6 Hot pursuit

Provisions

Cross reference

Abbreviated title

9. LAND-LOCKED COUNTRIES

9.1 General principles of the Law of the Sea covering the land-locked countriesCross referenceProvisionsAbbreviated title

(31) Bolivia: Land-locked countries

Articles 117-147:

Article 117- The right of land-locked States to free access to the sea (whatever the origin and nature of their land-locked conditions) is one of the basic principles of the law of the sea and forms an integral part of the principles of international law.

9.2.1

Article 127- States situated between the sea and one or more land-locked States retain full sovereignty over their territory and have the right to adopt such measures as may be necessary to ensure that the right of land-locked States to free access to the sea in no way prejudices their legitimate interests.

9.2.3

Article 137- For the purpose of enjoying the freedom of the sea and participating in the exploitation of the resources of the sea-bed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction on an equal footing with coastal States, land-locked States shall exercise the right of free access to the sea in the manner and subject to the conditions established in this Convention.

Article 147-

(1) The existence and the nature of the right of land-locked States to free access to the sea derive from the application of the principles of the freedom of the sea and the designation of the sea-bed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction, as well as the resources of that area, as the common heritage of mankind.

9.2.3

9.2.4

(2) Its validity and application do not depend exclusively on the unilateral will (or national laws) of States situated between the sea and one or more land-locked States, but concern the community of nations as a whole.

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
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Article [4]-

(3) Depending on the nature of each case, its exercise shall be governed by agreement between the land-locked States and the States situated between them and the sea.

9.2.1

Article [5]- Conventions or other international agreements governing the exercise of this right (of free access) shall not contain any clauses or provisions which limit the rights recognized by this Convention as an integral part of the right of land-locked States to free access to the sea.

9.2.1

Article [6]- The lack or inadequacy of conventions or other international agreements to cover particular cases of the right of land-locked States to free access to the sea shall neither nullify that right as recognized in this Convention nor restrict the exercise thereof in the manner set out herein. (articles etc.).

9.2.1

Article [7]- States situated between the sea and one or more land-locked countries shall, without discriminating between the latter and in accordance with the principles (articles) of this Convention, guarantee to the land-locked State or States:

(a) Free and unrestricted transit through their territory (for all classes of movable goods, livestock, objects, merchandise and persons);

9.2.2

(b) For vessels flying the flag of the land-locked State, the same treatment as that given to their own vessels or vessels of any other State in respect of entry into and departure from seaports;

9.2.2

(c) The use of such ports, installations and equipment as may be appropriate for the movement of traffic in transit, under the same conditions as for themselves;

Cross reference

Provisions

Abbreviated title

Article [7] -

(d) Alternatively, free zones in the aforesaid ports in which land-locked States may, at their own expense, erect or construct warehouses or stores, facilities for the separation of cargoes, goods-yards and railway sidings, oil or gas tanks and pipes for the loading of tank vessels, office and residential buildings, etc.;

9.2.2

(e) The right to appoint, in the ports of transit or free zones, national customs officials who may, without prior notice and without control or supervision by the local authorities, authorize the docking of vessels whose cargo is destined for, or originates primarily in, the land-locked country, and organize and supervise the loading and unloading of such vessels, as well as such port or free zone services as may be necessary for that purpose, without restrictions other than those relating to security, public health and the police regulations of the coastal transit State;

9.2.2

(f) The use of the means of transport and communication existing in their territory, under the same conditions as for themselves.

9.2.1

Article [8] - When means of transport and communication in the States situated between the sea and one or more land-locked States are insufficient to give effect to the right of land-locked States to free access to the sea or when the aforesaid means of transport and communication or the port installations and equipment are inadequate or may be improved in any respect, the land-locked States may construct, modify or improve them at their own expense.

9.2.1; 9.2.2

Article [9] - If the port installations and equipment and the means of transport and communication existing in the country of transit are used in a proportion equal to or greater than fifty per cent of their capacity by the land-locked State or States, any tariffs, fees or other charges for services rendered shall be fixed by agreement among the States concerned.

9.2.1

Article [10] - Goods and passengers in transit traffic to or from the land-locked State shall not be subject to the jurisdiction or competence of the judicial authorities of the coastal transit State.

9.2.1

Abbreviated titleProvisionsCross reference

Article <u>[11]</u> - The reciprocity of free transit, when this concept is embodied in the right of land-locked States to free access to the sea, is not an essential principle but may be agreed among the parties.	9.2.1
Article <u>[12]</u> - The rights and facilities established by this Convention as inherent in the right of land-locked States to free access to the sea by reason of special geographical situation, shall be excluded from application of the most-favoured-nation clause.	9.2.1
Amendment <u>[13]</u> - Amend the last line of Principles 7 and 8 of the Declaration of Principles (General Assembly resolution 2749 (XXV)) to read: "... and taking into particular consideration the interests and needs of the developing countries, especially those which are land-locked".	9.3
Article <u>[14]</u> - The land-locked (developing) countries shall have the same obligations and rights as contiguous (developing) coastal States with regard to participation in the live resources of the seas adjacent to the region, the natural resources of the continental shelf and those lying in the sea-bed or the sub-soil thereof within the limits of the jurisdictional sea (Exclusive Economic Zone).	9.4 5.1 5.4 6.7
(53) Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia: land-locked States	9.2 9.2.1

Article II, paragraph 2 - Text reproduced in 9.2 under (53).

9.2 Rights and interests of land-locked countries

Cross reference

Abbreviated title

Provisions

(8) Yaoundé conclusions

Part I (a) (5):

"(5) The limit of the economic zone shall be fixed in nautical miles in accordance with regional considerations taking duly into account the resources of the region and the rights and interests of the land-locked and near land-locked States, without prejudice to limits already adopted by some States within the region."

10

(36) Ecuador, Panama, Peru:
draft articles

"Section IX - Land-locked countries régime

Article 15:

1. Land-locked States shall have the right of free access to the sea for the purpose of such uses and such preferential régime as they may agree upon with the neighbouring coastal States within the seas adjacent to the latter, and for enjoyment of the freedoms of the international seas.

2. Such uses and such preferential régime in the seas adjacent to the neighbouring coastal States as may be agreed upon shall be reserved to national enterprises of the land-locked State."

Article 16:

"Coastal States which are not adjacent to land-locked States in the same region or subregion shall accord uses and a preferential régime within their adjacent seas to national enterprises of such land-locked States, under regional, subregional or bilateral agreements taking the interests of the respective States into account.

... (Complementary provisions on the régime for land-locked countries)

Cross reference

Provisions

Abbreviated title

(37) Malta: coastal State jurisdiction

"Chapter XIV: Mineral and other non-living resources of national ocean space

Article 93

2. Notwithstanding the provisions of the foregoing paragraph, the coastal State has an obligation to provide adjacent land-locked countries with access to the mineral and other non-living resources of its national ocean space on conditions similar to those applicable to its own nationals."

6.7.3

(43) China: working paper

"2. Exclusive Economic Zone or Exclusive Fishery Zone

10.3

(3) A coastal State shall, in principle, grant to the land-locked and shelf-locked States adjacent to its territory common enjoyment of a certain proportion of the rights of ownership in its economic zone. The coastal State and its adjacent land-locked and shelf-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters."

(49) Fourteen power: draft articles on exclusive economic zone

"Article III -

The limits of the Economic Zone shall be fixed in nautical miles in accordance with criteria in each region, which take into consideration the resources of the region and the rights and interests of developing land-locked, near land-locked, shelf-locked States and States with narrow shelves and without prejudice to limits adopted by any State within the region. The Economic Zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining territorial sea."

10.3

Cross reference

Abbreviated title

Provisions

(53) Afghanistan,
Bolivia,
Czechoslovakia,
Hungary, Mali,
Nepal and Zambia:
land-locked
States

Preamble and Draft Articles (I) - (XXII).

"Preamble

Recognizing that the right of free access to and from the sea of land-locked States is one of the essential principles of the law of the sea and forms an integral part of the established principles of international law, as the right of free access to and from the sea of land-locked States derives from the application of the fundamental principles of freedom of high seas and has further been strengthened by the principle of the Area of the sea-bed as the common heritage of mankind.

"ARTICLE I

Definitions

For the purpose of this Convention:

- (a) 'land-locked State' means any State which has no sea coast;
- (b) (i) the term 'traffic in transit' means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without transshipment, warehousing, breaking bulk or change in the mode of transport is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;
- (ii) for the purpose of traffic in transit 'person in transit' means the passage of person whose movement is not prejudicial to security, law and order of the transit State;

Cross reference

Provisions

Abbreviated title

- | | |
|---|--|
| <p>(53) Afghanistan,
Bolivia,
Czechoslovakia,
Hungary, Mali,
Nepal and Zambia:
land-locked
States
(continued)</p> | <p>(c) the term "transit State" means any State with or without a sea coast, situated between a land-locked State and the sea, through whose territory the land-locked State shall have access to and from the sea;</p> <p>(d) the term "means of transport" includes:</p> <p>(i) any railway stock, seagoing and river vessels and road vehicles,</p> <p>(ii) where the local situation so requires, porter and pack animals,</p> <p>(iii) pipelines, gaslines, and storage tanks when they are used for traffic in transit and other means of transport subject to appropriate arrangements as and when necessary;</p> |
|---|--|

"ARTICLE II

9.1; 9.2.1

Right of free access to and from the sea

1. The right of land-locked States to free access to and from the sea is one of the basic principles of the law of the sea and forms an integral part of the principles of international law.
2. In order to enjoy the freedom of the seas and to participate in the exploration and exploitation of the seabed and its resources on equal terms with coastal States, land-locked States irrespective of the origin and characteristics of their land-locked conditions, shall have the right of free access to and from the sea in accordance with the provisions of this Convention.
3. The right of free access to and from the sea of land-locked States shall be the concern of the international

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(53) Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia: land-locked States (continued)	community as a whole and the exercise of such right shall not depend exclusively on the transit States. <u>ARTICLE III</u> <u>Freedom of transit</u> Transit States shall accord free and unrestricted transit for traffic in transit of land-locked States, without discrimination among them, to and from the sea by all means of transport and communication, in accordance with the provisions of this Convention.	9.2.1
	<u>ARTICLE IV</u> <u>Right of flag and equal treatment</u> 1. A land-locked State shall have, equally with coastal States, the right to fly its flag on vessels which are duly registered in its territory. 2. On the high seas, vessels flying the flag of a land-locked State shall have identical rights to those enjoyed by vessels of coastal States. 3. In the territorial sea and in internal waters, vessels flying the flag of land-locked States shall have identical rights and enjoy treatment equal to that enjoyed by vessels flying the flag of coastal States.	9.2.1
	<u>ARTICLE V</u> <u>Right to use Maritime Ports</u> 1. Vessels flying the flag of a land-locked State shall have the right to use maritime ports.	9.2.1; 9.2.2

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(53) Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia: land-locked States (continued)	<p>2. Vessels of land-locked States are entitled to the most favoured treatment and shall under no circumstances receive a treatment less favourable than that accorded to vessels of coastal States as regards access to and exit from the maritime ports.</p> <p>3. The use of these ports, facilities, installations and equipments of any kind shall be provided under the same conditions as for coastal States.</p>	

ARTICLE VI

Customs duties and other charges

9.2.1; 9.2.2

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connexion with such traffic.
2. If the port installations and equipments or the means of transport and communication or both existing in a transit State are primarily used by one or more land-locked States, tariffs, fees or other charges for services rendered shall be subject to agreement between the States concerned.
3. Means of transport in transit used by the land-locked State shall not be subject to taxes, tariffs or charges higher than those levied for the use of means of transport of the transit State.

Cross reference

Abbreviated title

Provisions

(53) Afghanistan,
Bolivia,
Czechoslovakia,
Hungary, Mali,
Nepal and Zambia:
land-locked
States
(continued)

ARTICLE VII

Free zone or other facilities

9.2.1; 9.2.2

1. For convenience of traffic in transit, free zones and/or other facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

2. Such zones shall be exempted from the customs regulations of the coastal States. They remain, however, subject to the jurisdiction of those States with regard to police and public health regulations.

ARTICLE VIII

Right to appoint customs officials

9.2.1; 9.2.2

Land-locked States shall have the right to appoint customs officials of their own in the ports of transit or free zones empowered in accordance with practice of States, to arrange the berthing of vessels whose cargo is bound for or coming from the land-locked State and to make arrangements for and supervise loading and unloading operations for such vessels as well as documentation and other necessary services for the speedy and smooth movement of traffic in transit.

ARTICLE IX

9.2.1; 9.2.2

Transportation, handling and storage of goods in transit

Transit States shall provide adequate means of transport, storage and handling facilities at the points of entry and exit, and at intermediate stages for the smooth movement of traffic in transit.

Abbreviated title

(53) Afghanistan,
Bolivia,
Czechoslovakia,
Hungary, Mali,
Nepal and Zambia:
land-locked
States
(continued)

Provisions

Cross reference

ARTICLE X

9.2.1; 9.2.2

Improvement of the means of transport and communications

When means of transport and communication in the transit States are insufficient to give effect to the rights of land-locked States of free access to and from the sea or when the aforesaid means of transport and communication or the port installations and equipment are inadequate or may be improved in any respect, the land-locked States shall have the right to construct, modify or improve them in agreement with the transit State or States concerned.

ARTICLE XI

9.2.1; 9.2.2

Delays or difficulties in traffic in transit

1. Except in cases of force majeure all measures shall be taken by transit States to avoid delays in or restrictions on traffic in transit.
2. Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of land-locked States shall co-operate towards their expeditious elimination.

ARTICLE XII

9.2.1

Right of access to and from the sea through rivers

A land-locked State shall have the right of access to and from the sea through navigable rivers which pass through its territory and the territory of transit States or form a common boundary between those States and the land-locked State.

Cross reference

Abbreviated title

Provisions

(53)

Afghanistan,
Bolivia,
Czechoslovakia,
Hungary, Mali,
Nepal and Zambia:
land-locked
States
(continued)

ARTICLE XIII

Alternative routes

Land-locked States shall have the right to use one or more of the alternative routes or means of transport for purposes of access to and from the sea.

ARTICLE XIV

Rights of transit States

The transit State, while maintaining full sovereignty over its territory, shall have the right to take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit shall in no way infringe its legitimate interests. This provision shall not be construed as prejudicing territorial disputes of any kind.

ARTICLE XV

Temporary deviation in exceptional cases

The measures of a general or particular character which a contracting State is obliged to take in case of an emergency affecting the security of the State or the vital interests of the country may in exceptional cases and for as short a period as possible, involve a deviation from the provisions of the above articles, it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

9.2.1

9.2.1

9.2.1

Provisions

Abbreviated title

(53) Afghanistan,
Bolivia,
Czechoslovakia,
Hungary, Mali,
Nepal and Zambia:
land-locked
States
(continued)

ARTICLE XVI

Reciprocity

Since free transit of land-locked States forms part of their right of free access to and from the sea which belongs to them in view of their special geographical position, reciprocity shall not be a condition of free transit of land-locked States required by transit States but may be agreed between the parties concerned.

ARTICLE XVII

Access to and from the sea-bed area

(1) Land-locked States shall have the right of free access to and from the area of the sea-bed in order to enable them to participate in the exploration and exploitation of the area and its resources and to derive benefits therefrom in accordance with the provisions of this Convention.

(2) For this purpose the land-locked States shall have the right to use all means and facilities provided for in this Convention with regard to traffic in transit.

ARTICLE XVIII

Representation of land-locked States

In any organ of the International Sea-bed Machinery in which not all Member States will be represented, in particular in its Council, there shall be an adequate and proportionate number of land-locked States, both developing and developed.

Cross reference

9.2.1

9.2.3

9.2.4

Cross reference

Provisions

9.2.4

ARTICLE XIX

Decision-making

(1) In any organ of the Machinery, decisions on questions of substance shall be made with due regard to the special needs and problems of land-locked States.

(2) On questions of substance which affect the interests of land-locked States, decisions shall be made with their participation.

9.2.1

ARTICLE XX

Relation to previous agreements

(1) The provisions of this Convention which govern the right of free access of land-locked States to and from the sea shall not abrogate existing special agreements between two or more States concerning the matters which are regulated in this Convention, nor shall they raise an obstacle as regards the conclusion of such agreements in the future.

(2) In case such existing agreements provide less favourable conditions than those contained in this Convention, the States concerned undertake that they shall bring them in accord with the present provisions at the earliest occasion.

(3) The provisions contained in the preceding paragraph shall not affect existing bilateral or multilateral agreements relating to air transport.

Abbreviated title

(53) Afghanistan,
Bolivia, Mali,
Hungary, and Zambia:
land-locked
States
(continued)

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(53) Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia: land-locked States (continued)	<p><u>ARTICLE XXI</u></p> <p><u>Exclusion of application of most-favoured-nation clause</u></p> <p>Provisions of this Convention, as well as special agreements which regulate the exercise of the right of free access to and from the sea and the area of the sea-bed, establishing rights and facilities on account of special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause."</p>	9.2.1; 9.2.3
21		
	<p><u>ARTICLE XXII</u></p> <p><u>Settlement of disputes</u></p> <p>Any dispute arising from the interpretation and application of the provisions of the foregoing articles shall be subject to the procedures for the settlement of disputes provided for in the Convention.</p>	
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67).	6.1; 7.1; 7.2; 7.3; 7.5; 9.4; 10.2; 10.3; 15
(68) Zaire: fishing	<p><u>"Article 2</u></p> <p>Land-locked States and geographically disadvantaged States shall have the right to participate, on a footing of equality and without discrimination, in the exploitation of the living resources of the economic zones of neighbouring coastal States.</p>	6.4; 10.3

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(68) Zaire: fishing (<u>continued</u>)	<p>The detailed procedure for the exercise of such a right may be determined on a bilateral or regional basis in suitable arrangements.</p> <p>The benefit of that right shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States and for their sole account."</p>	

9.2.1 Free access to and from the sea: freedom of transit, means and facilities for transport and communications

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé: Conclusions	Part I (a) (4) last sentence: "... to be effective, the rights of land-locked States shall be complemented by the right of transit.	Text of para (4) reproduced in 9.4
(28) OAU Declaration	Part A, para. 2: "2. That the African States endorse the principle of the right of access to and from the sea by the land-locked African countries, and the inclusion of such a provision in the universal treaty to be negotiated at the Law of the Sea Conference;"	
(29) Uruguay: territorial sea	Section VII. Régime for countries having no sea-coast. "Article ... 1. States having no sea-coast shall have free access to the territorial seas of coastal States which are their neighbours or which belong to the same subregion, in order to exercise the rights stipulated in such special régimes as may be instituted by bilateral or subregional agreements and to enjoy, on equal terms with coastal States, the freedom of the high seas. 2. For the purposes specified in the preceding paragraph, States situated between the sea and a State having no sea-coast shall, in conformity with their municipal laws and such bilateral or subregional agreements as they may conclude on the subject, guarantee the latter State free transit through their territories, grant appropriate facilities in order to effect such transit, and accord to ships flying the flag of that State treatment equal to that accorded to their own ships as regards access to seaports and the use of such ports.	
(31) Bolivia: Land-locked countries	Articles [1], [5], [6], [7], [7 f], [8], [9], [10], [11], [12], - Texts reproduced in 9.1 under (31)	9.1

Cross reference

Provisions

(36) Ecuador, Panama, Peru,
draft articles

Section IX: Land-locked countries régime

9.2

Article 15

1. Land-locked States shall have the right of free access to the sea for the purpose of such uses and such preferential régime as they may agree upon with the neighbouring coastal States within the seas adjacent to the latter, and for enjoyment of the freedoms of the international seas.

2. Such uses and such preferential régime in the seas adjacent to the neighbouring coastal States as may be agreed upon shall be reserved to national enterprises of the land-locked State.

(46) Argentina: draft
articles

14. Through bilateral and, where appropriate, subregional agreements, a coastal State shall facilitate for neighbouring States having no sea-coast the right of access to the sea and of transit. In the same way agreement shall be reached with States having no sea-coast on an equitable régime for the exercise in the maritime area of fishing rights which shall be preferential in relation to third States. The said preferential rights shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State.

(53) Afghanistan, Bolivia,
Czechoslovakia,
Hungary, Mali, Nepal
and Zambia

Articles (II) - (XVII), (XX), (XXI) - Texts reproduced in 9.2 under (53).

9.1; 9.2; 9.2.2;
9.2.3.

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(55) China: international sea area	(2) In order to have access to and from the international sea area for trade and other peaceful purposes, land-locked States have the right to pass through the territory, territorial sea and other waters of adjacent coastal States. Coastal States and adjacent land-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters.	9.2.3

9.2.2 Equality of treatment in the ports of transit States

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(36) Ecuador, Panama, Peru: draft articles	"Section IX - Land-locked countries régime Article 15, paragraph 3: 3. For the purposes provided for in this article, coastal States shall guarantee neighbouring land-locked States free passage through their territories, as well as equal treatment as regards entry into use of ports, in accordance with internal legislation and any relevant agreements they may conclude."	9.2 9.2.1
(31) Bolivia: Land- locked countries	Articles [7(b), (c), (d), (e)], [8] - texts reproduced in 9.1 under (31).	
(53) Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia: land-locked States	Articles (V) - (XI) - Texts reproduced in 9.2 under (53).	

9.2.3 Free access to and from the sea: freedom of transit, means and facilities for transport and communications

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(6) Afghanistan, Austria, Belgium, Hungary, Nepal, Netherlands and Singapore: WP	<p>Part IV:</p> <p>"IV. <u>Facilities for landlocked States</u> - When the Council of the International Authority licenses a landlocked State, acting alone or together with another State, to exploit a particular part of the international area it shall - in accordance with the right of free access of landlocked countries to the sea - recommend arrangements between the landlocked State and one or more other member States designed to ensure effective freedom of communication between the landlocked State and the area under licence, for the purpose of exploration, exploitation, including storage and processing and marketing of the mineral resources of that area."</p>	
(31) Bolivia: Landlocked countries	Articles [3], [4.1] - texts reproduced in 9.1 under (31).	
(49) Fifteen power: draft articles	<p>"Article VIII -</p> <p>Nationals of a developing landlocked State shall enjoy the privilege to fish in the exclusive economic zone of the adjoining neighbouring coastal States. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the landlocked State concerned. The right to prescribe and enforce management measures in the area shall be with the Coastal State.</p> <p>The African States endorse the principles of the right of access to and from the sea by the landlocked countries, and the inclusion of such a provision in the universal treaty to be negotiated at the Law of the Sea Conference."</p>	
(53) Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia	Articles (XVII) and (XXI) - Texts reproduced in 9.2 under (53).	9.2 9.2.1

Abbreviated title

Provisions

Cross reference

- | | | |
|--|---|-------|
| (55) China:
international sea
area | (2) In order to have access to and from the
international sea area for trade and other peaceful
purposes, land-locked States have the right to pass
through the territory, territorial sea and other waters
of adjacent coastal States. Coastal States and adjacent
land-locked States shall, through consultations on the
basis of equality and mutual respect for sovereignty,
conclude bilateral or regional agreements on the relevant
matters. | 9.2.1 |
|--|---|-------|

9.2.4 Participation in the international régime, including the machinery
and the equitable sharing in the benefits of the area

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(31) Bolivia: Land-locked countries	Text reproduced in 9.1 under (31).	
(53) Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia: land-locked States	Articles (XVIII) and (XIX) - Texts reproduced in 9.2 under (53).	9.2

9.3 Particular interests and needs of developing land-locked countries in the international régime

Cross reference

Provisions

Abbreviated title

(31) Bolivia: land-locked countries

Amendment [13]:

"Amendment

Amend the last line of Principles 7 and 8 of the Declaration of Principles (General Assembly resolution 2749 (XXV)) to read:

"... and taking into particular consideration the interests and needs of the developing countries, especially those which are land-locked,"

9.4 Rights and interests of land-locked countries in regard to living resources of the sea

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé: conclusions	<p>Part I (a) (4):</p> <p>"4. The exploitation of the <u>living resources within the economic zone</u> should be open to all African States both <u>land-locked and near land-locked</u>, provided that the enterprises of these States desiring to <u>exploit these resources</u> are effectively controlled by African capital and personnel."</p>	10
(12) USA: Fisheries	<p>Part V, in part:</p> <p>"V. <u>Utilization and allocation</u>. "In order to assure the maximum utilization and equitable allocation of coastal and anadromous resources, the coastal State shall apply the following principles:</p> <p>A.</p> <p>B. The coastal State shall provide access by other States, under reasonable conditions, to that portion of the resources not fully utilized by its vessels on the basis of the following priorities:</p> <p>(1) States that have traditionally fished for a resource, subject to the conditions of sub-paragraph C;</p> <p>(2) other States in the region, particularly land-locked States and other States with limited access to the resources, with whom joint or reciprocal arrangements have been made; and</p> <p>(3) all States, without discrimination among them.</p> <p>C.</p> <p>States whose fishermen harvest a resource under regulation by a coastal State may be required, without discrimination, to pay reasonable fees to defray their share of the cost of such regulation."</p>	7.3; 7.5

Cross reference

Abbreviated title

Provisions

(28) OAU Declaration

Exclusive Economic Zone concept including Exclusive Fishery zone
Paragraph 9:

"9. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the land-locked and other disadvantaged countries are entitled to share in the exploitation of living resources of neighbouring economic zones on equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements as may be worked out;"

10

(29) Uruguay:
territorial sea

Section VII. Régime for countries having no sea-coast

"Article ... Coastal States shall, through bilateral or subregional agreements, as the case may require, in which the interests of all parties are given fair consideration, accord to States having no sea-coast which are their neighbours or which belong to the same subregion preferential treatment over third States with regard to fishing rights in that area of their territorial sea which is not reserved exclusively for their nationals. Such preferential treatment shall be reserved for national enterprises of the States having no sea-coast which operate in the area exclusively with ships flying the flag of those States and whose catch is intended for domestic or industrial consumption in the said States, or for national enterprises of the States having no sea-coast which are associated with national enterprises of the coastal States."

9.4

(31) Bolivia: Land-locked countries

Article [14]:

"Article [14] - The land-locked (developing) countries shall have the same obligations and rights as contiguous (developing) coastal States with regard to participation in the live resources of the seas adjacent to the region, the natural resources of the continental shelf and those laying in the sea-bed or the sub-soil thereof within the limits of the jurisdictional sea (Exclusive Economic Zone)."

5.1; 5.4; 6.7

Cross reference

Provisions

9.2.1

Abbreviated title

(46) Argentina: draft articles

"14. Through bilateral and, where appropriate, subregional agreements, a coastal State shall facilitate for neighbouring States having no sea-coast the right of access to the sea and of transit. In the same way agreement shall be reached with States having no sea-coast on an equitable régime for the exercise in the maritime area of fishing rights which shall be preferential in relation to third States. The said preferential rights shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State."

(47) Canada, India,
Kenya, Senegal,
Sri Lanka:
draft articles
on fisheries

"ARTICLE 6

6.6.1;
6.6.3

"Nationals of a developing land-locked State shall enjoy the privilege to fish in the neighbouring area of the exclusive fishery zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the land-locked State concerned. This privilege will be available to the nationals of the land-locked State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located."

(48) Afghanistan,
Austria, Belgium,
Bolivia, Nepal,
Singapore:
resource
jurisdiction

"ARTICLE II

"(1) Land-locked and coastal States which cannot or do not declare a Zone pursuant to Article I (hereinafter referred to as the Disadvantaged States), as well as natural or juridical persons under their control, shall have the right to participate in the exploration and exploitation of the living resources of the Zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly

Abbreviated title

Provisions

Cross reference

development and the rational management and exploitation of the living resources of particular Zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that Zone.

"(2) In the Zone the coastal State may annually reserve for itself and such other Disadvantaged States as may be exercising the right under the preceding paragraph, that part of the maximum allowable yield, as determined by the relevant international fisheries organization, which corresponds to the harvesting capacity and needs of these States.

7.3; 10.2

"(3) States other than those referred to in paragraph 1 shall have the right to exploit that part of the remaining allowable yield subject to payments, to be determined under equitable conditions, and regulations laid down by the coastal States for the exploitation of the living resources of the Zone.

10.2

"(4) Disadvantaged States shall not transfer the right conferred upon them in paragraph 1 to third parties. However, this provision shall not preclude the Disadvantaged States from entering into arrangements with third parties for the purpose of enabling them to develop viable fishing industries of their own.

10.2

"(5) A developed coastal State, which establishes a Zone pursuant to Article I, paragraph 1, shall contribute per cent of its revenues a/ derived from the exploitation of the living resources in that Zone to the International Authority. Such contributions shall be distributed by the International Authority on the basis of equitable sharing criteria.

10.2
7.5

"(6) In exploiting the living resources the States referred to in paragraphs 1 and 3 of this Article shall observe the regulations and measures pertaining to management and conservation in the respective Zones.

10.2

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(49) 15 powers: draft articles	<p>"ARTICLE VIII: Nationals of a developing land-locked State and other geographically disadvantaged States shall enjoy the privilege to fish in the exclusive economic Zones of the adjoining neighbouring coastal States. The modalities of the enjoyment of this privilege shall be settled by agreement between the coastal State and the land-locked State concerned. The right to prescribe and enforce management measures in the area shall be with the Coastal State.</p>	9.2.3
(67) Netherlands: intermediate zone	<p>"The African States endorse the principle of the right of access to and from the sea by the land-locked countries, and the inclusion of such a provision in the universal treaty to be negotiated at the Law of the Sea Conference."</p> <p>.....</p> <p>"ARTICLE X: Neighbouring developing States shall give reciprocal preferential treatment to one another in the exploitation of the living resources of their respective Economic Zones."</p>	6.4; 6.6.2
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67).	6.1; 7.1; 7.2; 7.3; 7.5; 9.2; 10.2; 10.3; 15
(68) Zaire: fishing	<p>"Article 1</p> <p>Neighbouring developing States shall grant one another preferential treatment in their respective economic zones with regard to the exploitation of living resources. The procedure for the exercise of such rights shall be settled by arrangement between the States concerned.</p> <p>The benefit of the preferential treatment provided for in the first paragraph shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States.</p> <p>The conservation and management of the resources of the entire economic zone shall lie within the competence and authority of the coastal State."</p>	6.6.2; 7.3

10. Rights and interests of shelf-locked states and states with narrow shelves or short coastlines

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé: Conclusions	"Part I (a) (4) The exploitation of the living resources within the economic zone should be open to all African States both land-locked and near land-locked, provided that the enterprises of these States <u>desiring to exploit these resources</u> are effectively controlled by African capital and personnel."	6.2; 9.4
(28) OAU Declaration	"Part C. <u>Exclusive economic zone concept including exclusive fishery zone</u> 9. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the landlocked and other disadvantaged countries are entitled to share in the <u>exploitation of living resources of neighbouring economic zones on equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements as may be worked out.</u> "	9.4

10.1 International régime

Abbreviated title

Provisions

Cross reference

10.2 Fisheries

Abbreviated title

(48) Afghanistan, Austria,
Belgium, Bolivia,
Nepal, and Singapore:
Resources
jurisdiction

Provisions

Article II

"ARTICLE II

"(1) Landlocked and coastal States which cannot or do not declare a Zone pursuant to Article I (hereinafter referred to as the Disadvantaged States), as well as natural or juridical persons under their control, shall have the right to participate in the exploration and exploitation of the living resources of the Zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational management and exploitation of the living resources of particular Zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that Zone.

"(2) In the Zone the coastal State may annually reserve for itself and such other Disadvantaged States as may be exercising the right under the preceding paragraph, that part of the maximum allowable yield, as determined by the relevant international fisheries organization, which corresponds to the harvesting capacity and needs of these States.

"(3) States other than those referred to in paragraph 1 shall have the right to exploit that part of the remaining allowable yield subject to payments, to be determined under equitable conditions, and regulations laid down by the coastal States for the exploitation of the living resources of the Zone.

"(4) Disadvantaged States shall not transfer the right conferred upon them in paragraph 1 to third parties. However, this provision shall not preclude the Disadvantaged States from entering into arrangements with third parties for the purpose of enabling them to develop viable fishing industries of their own.

Cross reference

Text of
Article I
reproduced
in 7.1.

7.1; 7.5; 9.4

7.3; 9.4

9.4

9.4

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
	<p>"(5) A developed coastal State, which establishes a Zone pursuant to Article I, paragraph 1, shall contribute per cent of its revenues a/ derived from the exploitation of the living resources in that Zone to the International Authority. Such contributions shall be distributed by the International Authority on the basis of equitable sharing criteria.</p> <p>"(6) In exploiting the living resources of the States referred to in paragraphs 1 and 3 of this Article shall observe the regulations and measures pertaining to management and conservation in the respective Zones."</p>	7.5; 9.4
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67).	6.1; 7.1; 7.2; 7.3; 7.5; 9.2; 9.4; 10.3; 15

10.3 Special interests and needs of developing shelf-locked states and states with narrow shelves or short coastlines

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(43) China: Working paper	<p>"2. Exclusive economic zone or exclusive fishery zone, para.(3):</p> <p>"(3) A coastal State shall, in principle, grant to the land-locked and shelf-locked States adjacent to its territory common enjoyment of a certain proportion of the rights of ownership in its economic zone. The coastal State and its adjacent land-locked and shelf-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters."</p>	9.2
(49) Fourteen Power Draft: Exclusive economic zone	<p style="text-align: center;"><u>Article III</u></p> <p>"The limits of the Economic Zone shall be fixed in nautical miles in accordance with criteria in each region, which take into consideration the resources of the region and the rights and interests of developing land-locked, near land-locked, shelf-locked States and States with narrow shelves and without prejudice to limits adopted by any State within the region. The Economic Zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining territorial sea."</p>	9.2
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67)	6.1; 7.1; 7.2; 7.3; 7.5; 9.2; 9.4; 10.2; 15

Abbreviated title Provisions Cross reference

(68) Zaire: fishing "Article 2 6.4; 9.2

Land-locked States and geographically disadvantaged States shall have the right to participate, on a footing of equality and without discrimination, in the exploitation of the living resources of the economic zones of neighbouring coastal States.

The detailed procedure for the exercise of such a right may be determined on a bilateral or regional basis in suitable arrangements.

The benefit of that right shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States and for their sole account."

10.4 Free access to and from the high seas

Abbreviated title

Provisions

Cross reference

11. RIGHTS AND INTERESTS OF STATES WITH BROAD SHELVES

Abbreviated Title

Provisions

Cross reference

14. DEVELOPMENT AND TRANSFER OF TECHNOLOGY

14.1.2 Training of personnel from developing countries

Abbreviated title

(28) OAU Declaration

Provisions

Part F, para.13

Cross reference

13. That the African States in order to benefit in exploration and exploitation of the resources of the seabed and subsoil thereof shall intensify national and regional efforts, in the training and assistance of their personnel in all aspects of marine science and technology. Furthermore they shall urge the appropriate United Nations Agencies and the technologically advanced countries to accelerate the process of transfer of marine science and technology, including the training of personnel.

15. REGIONAL ARRANGEMENT

Provisions

Abbreviated title

Cross reference

(25) Colombia, Mexico,
Venezuela: draft
articles

"Article 18: No provision of this Treaty shall be interpreted as preventing or restricting the right of any State to conclude regional or subregional agreements to regulate exploitation or distribution of the living resources of the sea, preservation of the marine environment or scientific research, or as affecting the legal validity of existing agreements.

(28) OAU Declaration

"Part D, para 11:

6.4

That the African States in order to develop and manage the resources of the region take all possible measures including co-operation in the conservation and management of the living resources and the prevention and control of pollution to conserve the marine environment, establish such regional institutions as may be necessary and settle disputes between them in accordance with regional arrangements."

(36) Ecuador, Panama, Peru:
draft articles

"Articles 13.1 and 14:

Article 13:

1. In regions or subregions in which certain coastal States, owing to geographical or ecological factors, are unable, before all their coastlines, to extend the limits of their sovereignty and jurisdiction up to distances equal to those adopted by other coastal States in the same region or subregion, the former States shall enjoy, in the seas of the latter States, a preferential régime vis-à-vis third States in matters relating to the exploitation of renewable resources, the said régime to be determined by regional, subregional or bilateral agreements taking into account the interests of the respective States.

The coastal States of a single region or subregion shall promote such forms of co-operation and consultation as they consider most appropriate in the legal, economic, scientific and technical spheres relating to maritime questions.

<u>Abbreviated title</u>	<u>Provisions</u>	
(64) Jamaica: regional facilities	Articles (1), (2), (3), (4), (5) - Texts reproduced in 2.3.2 and 6 under (64).	2.3.2; 5; 6; 7; 10
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67).	6.1; 7.1; 7.2; 7.3; 7.5; 9.2; 9.4; 10.2; 10.3
(69) Iran: regional arrangement	<u>Article ...</u> 1. States of a region or subregion may, in order to co-ordinate matters relating to the legal, economic and technical aspects of the Law of the Sea in their region or subregion, conclude appropriate arrangements between themselves. 2. These arrangements will take into account: (a) the legitimate interests of the States concerned; (b) the orderly development of the renewable resources of the sea under their jurisdiction.	
(70) Yugoslavia: regional arrangements	<u>Article ...</u> 1. The States of a region or subregion may, subject to the general provisions of this Convention, on the basis of equality and mutual respect, promote consultations and negotiate such forms of co-operation as they consider most appropriate with respect to all maritime matters, including those relating to legal, geographical, economic and ecological aspects, as well as to scientific research and the transfer of technology. 2. These arrangements should take into account (a) the legitimate interests of all States concerned, as well as (b) the orderly development and rational management of resources of the Zone.	

16. ARCHIPELAGOS

Cross reference

2.1, 2.4

Provisions

Abbreviated title

(18) Fiji, Indonesia,
Mauritius, Philippines:
Archipelagic principles

"Paras 1-3:

1. An archipelagic State, whose component islands and other natural features form an intrinsic geographical, economic and political entity, and historically have or may have been regarded as such, may draw straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago from which the extent of the territorial sea of the archipelagic State is or may be determined.

2. The waters within the baselines, regardless of their depth or distance from the coast, the sea-bed and the subsoil thereof, and the superjacent airspace, as well as all their resources, belong to, and are subject to the sovereignty of the archipelagic State.

3. Innocent passage of foreign vessels through the waters of the archipelagic State shall be allowed in accordance with its national legislation, having regard to the existing rules of international law. Such passage shall be through searoutes as may be designated for that purpose by the archipelagic State."

(28) OAU Declaration

"Part A, para 4:

2.3.1

4. That the African States endorse the principle that the base-lines of any archipelagic State may be drawn by connecting the outermost points of the outermost islands of the archipelago for the purposes of determining the territorial sea of the archipelagic State."

(29) Uruguay:
territorial sea

"Article 12:

1. The territorial sea of an archipelagic State whose constituent islands and other natural characteristics form an intrinsic geographical, economic and political entity that has been or may have been historically regarded as such may be

Provisions

Abbreviated title

measured from the straight baselines joining the furthest points of the islands and the outermost low-tide reefs of the archipelago.

2. Waters enclosed by the baselines drawn in accordance with paragraph 1, irrespective of their depth or distance from the coast, shall be regarded as internal waters without prejudice to the innocent passage of ships flying any flag."

(36) Ecuador, Panama, Peru:
draft articles

"Section II - Baselines

2.3.2

... (Provisions on delimitation between States whose coasts are opposite **or** contiguous)

Article 3:

1. The area of sovereignty and jurisdiction of an archipelagian State may be measured from straight baselines joining the outermost points of the outer islands and reefs of the archipelago.

2. In such cases, the waters enclosed by the baselines shall be considered internal waters, though vessels of any flag may sail in them, in accordance with the provisions laid down by the archipelagian State."

... (Complementary provisions)

(37) Malta: coastal State
jurisdiction

"Article 11.2

The jurisdiction of an island State or of an archipelago State may extend to a belt of ocean space adjacent to the coast of the principal island or islands, the breadth of which is 200 nautical miles measured from baselines drawn in accordance with the provisions of Chapter III of this convention. The principal island or islands of an archipelago

Abbreviated title

Provisions

Cross reference

State shall be designated by the State concerned and notified to the International Ocean Space Institutions. In the event of disagreement with the designations made by the archipelago State any Contracting Party may submit the matter to the International Maritime Court for binding adjudication."

(38) Greece: Islands

"Para 5:

Text of paras
reproduced in 19

5. The above provisions do not prejudice the régime of archipelagic islands.

(43) China: working
paper

"1. Territorial Sea

2.3.2

(6) An archipelago or an island chain consisting of islands close to each other may be taken as an integral whole in defining the limits of the territorial sea around it."

(54) United Kingdom:
archipelagic
States

"Article

Rights and obligations of archipelagic States

1. On ratifying or acceding to this Convention, a state may declare itself to be an archipelagic State where:

(a) the land territory of the State is entirely composed of three or more islands; and

(b) it is possible to draw a perimeter, made up of a series of lines or straight baselines, around the outermost points of the outermost islands in such a way that:

(i) no territory belonging to another State lies within the perimeter,

(ii) no baseline is longer than 48 nautical miles, and

(iii) the ratio of the area of the sea to the area of land territory inside the perimeter does not exceed five to one:

Cross reference

Provisions

Abbreviated title

(54) United Kingdom:
archipelagic
States
(continued)

Provided that any straight baseline between two points on the same island shall be drawn in conformity with articles of the Convention (on straight baselines).

2. A declaration under paragraph 1 above shall be accompanied by a chart showing the perimeter and a statement certifying the length of each baseline and the ratio of land to sea within the perimeter.

3. Where it is possible to include within a perimeter drawn in conformity with paragraph 1 above only some of the islands belonging to a State, a declaration may be made in respect of those islands. The provisions of this Convention shall apply to the remaining islands in the same way as they apply to the islands of a State which is not an archipelagic State and references in this article to an archipelagic State shall be construed accordingly.

4. The territorial sea /Economic Zone and any continental shelf of an archipelagic State shall extend from the outside of the perimeter in conformity with articles of this Convention. =

2.31; 5.2; 6.5

5. The sovereignty of an archipelagic State extends to the waters inside the perimeter, described as archipelagic waters: this sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

6. An archipelagic State may draw baselines in conformity with articles.... (bays) and (river mouths) of this Convention for the purpose of delimiting internal waters.

Cross reference

Provisions

Abbreviated title

(54)	United Kingdom: archipelagic States (continued)	7. Where parts of archipelagic waters have before the date of ratification of this Convention been used as routes for international navigation between one part of the high seas and another part of the high seas or the territorial sea of another State, the provisions of articles of this Convention apply to those routes (as well as to those parts of the territorial sea of the archipelagic State adjacent thereto) as if they were straits. A declaration made under paragraph 1 of this article shall be accompanied by a list of such waters which indicates all the routes used for international navigation, as well as any traffic separation schemes in force in such waters in conformity with articles of this Convention. Such routes may be modified or new routes created only in conformity with articles of this Convention.	4.2
		8. Within archipelagic waters, other than those referred to in paragraph 7 above, the provisions of articles (innocent passage) apply.	2.4
		9. In this article, references to an island include a part of an island and reference to the territory of a State includes its territorial sea.	
		10. The provisions of this article are without prejudice to any rules of this Convention and international law applying to islands forming an archipelago which is not an archipelagic State.	
		11. The depositary shall notify all States entitled to become a party to this Convention of any declaration made in conformity with this article, including copies of the chart and statement supplied pursuant to paragraph 2 above.	

Provisions
Cross reference

2

Abbreviated title

(54) United Kingdom:
archipelagic
States
(continued)

12. Any dispute about the interpretation or application of this article which cannot be settled by negotiations may be submitted by either party to the dispute to the procedures for the compulsory settlement of disputes contained in articles of this Convention."

(58) Fiji, Indonesia,
Mauritius, the
Philippines:
archipelagic
States

"ARTICLE I

1. These articles apply only to archipelagic States.

2. An archipelagic State is a State constituted wholly or mainly by one or more archipelagos.

3. For the purposes of these articles an archipelago is a group of islands and other natural features which are so closely interrelated that the component islands and other natural features form an intrinsic geographical, economic and political entity or which historically have been regarded as such.

ARTICLE II

2.3.1

1. An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea is to be measured.

2. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

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

Cross reference

Provisions

Abbreviated title

(58) Fiji, Indonesia,
Mauritius, the
Philippines:
archipelagic
States
(continued)

- them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.
4. The system of straight baselines shall not be applied by an archipelagic State in such a manner as to cut off the territorial sea of another State.
5. The archipelagic State shall clearly indicate its straight baselines on charts to which due publicity shall be given.

ARTICLE III

1. The waters enclosed by the baselines, which waters are referred to in these articles as archipelagic waters, regardless of their depth or distance from the coast, belong to and are subject to the sovereignty of the archipelagic State to which they appertain.

2. The sovereignty and rights of the archipelagic State extend to the air space over its archipelagic waters as well as to the water column, the sea-bed and subsoil thereof, and to all of the resources contained therein.

ARTICLE IV

Subject to the provisions of article V, innocent passage of foreign ships shall exist through archipelagic waters.

2.4

Cross reference

Provisions

ARTICLE V

2.4

Abbreviated title

(58) Fiji, Indonesia,
Mauritius and the
Philippines:
archipelagic
States
(continued)

1. An archipelagic State may designate sealanes suitable for the safe and expeditious passage of ships through its archipelagic waters and may restrict the innocent passage by foreign ships through those waters to those sealanes.

2. An archipelagic State may, from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

3. An archipelagic State which designates sealanes under the provisions of this article may also prescribe traffic separation schemes for the passage of foreign ships through those sealanes.

4. In the prescription of traffic separation schemes under the provisions of this article, an archipelagic State shall, inter alia, take into consideration:

(a) the recommendation or technical advice of competent international organizations;

(b) any channels customarily used for international navigation;

(c) the special characteristics of particular channels; and

(d) the special characteristics of particular ships or their cargoes.

5. An archipelagic State may make laws and regulations, not inconsistent with the provisions of these articles and having regard to other applicable rules of international

Cross reference

Provisions

Abbreviated title

- (58) Fiji, Indonesia, Mauritius and the Philippines: archipelagic States
(continued)
- law, relating to passage through sealanes and traffic separation schemes as designated by the archipelagic State under the provisions of this article, which laws and regulations may be in respect of, inter alia, the following:
- (a) the safety of navigation and the regulation of marine traffic, including ships with special characteristics;
 - (b) the utilization of, and the prevention of destruction or damage to, facilities and systems of aids to navigation;
 - (c) the prevention of destruction or damage to facilities or installations for the exploration and exploitation of the marine resources, including the resources of the water column, the sea-bed and subsoil;
 - (d) the prevention of destruction or damage to submarine or aerial cables and pipelines;
 - (e) the preservation of the environment of the archipelagic State and the prevention of pollution thereto;
 - (f) research of marine environment;
 - (g) the prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary regulations of the archipelagic State;
 - (h) the preservation of the peace, good order and security of the archipelagic State.

Cross reference

Provisions

Abbreviated title

- (58) Fiji, Indonesia, Mauritius and the Philippines: archipelagic States
(continued)
6. The archipelagic State shall give due publicity to all laws and regulations made under the provisions of paragraph 5 of this article.
7. Foreign ships exercising innocent passage through those sealanes shall comply with all laws and regulations made under the provisions of this article.
8. If any warship does not comply with the laws and regulations of the archipelagic State concerning passage through any sealane designated by the archipelagic State under the provisions of this article and disregards any request for compliance which is made to it, the archipelagic State may suspend the passage of such warship and require it to leave the archipelagic waters by such route as may be designated by the archipelagic State. In addition to such suspension of passage the archipelagic State may prohibit the passage of that warship through the archipelagic waters for such period as may be determined by the archipelagic State.
9. Subject to the provisions of paragraph 8 of this article, an archipelagic State may not suspend the innocent passage of foreign ships through sealanes designated by it under the provisions of this article, except when essential for the protection of its security, after giving due publicity thereto, and substituting other sealanes for those through which innocent passage has been suspended.
10. An archipelagic State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

17. ENCLOSED AND SEMI-ENCLOSED SEAS

18. ARTIFICIAL ISLANDS AND INSTALLATIONS

Cross reference

Abbreviated title

Provisions

(25) Colombia, Mexico and
Venezuela: draft
articles

"Article 7. The coastal State shall authorize and regulate the emplacement and use of artificial islands and any kind of facilities on the surface of the sea, in the water column and on the sea-bed and subsoil of the patrimonial sea."

(30) Belgium: Artificial
islands and
installations

"A. The territorial sea:

Article (a): The coastal State is entitled to construct artificial islands or immovable installations in its territorial sea; it must not, through such structures, impede access to the ports of a neighbouring State or cause damage to the marine environment of the territorial seas of neighbouring States.

Article (b): Before commencing the construction of artificial islands or installations as mentioned in the preceding article, the coastal State shall publish the plans thereof and take into consideration any observations submitted to it by other States. In the event of disagreement, an interested State which deems itself injured may appeal to IMCO, which though not empowered to prohibit the construction, may prescribe such changes or adjustments as it considers essential to safeguard the lawful interests of other States.

B. The continental shelf:

Article (c): The coastal State may, on the conditions specified in the following article, authorize the construction on its continental shelf of artificial islands or immovable installations serving purposes other than the exploration or exploitation of natural resources. Such structures shall be placed under its jurisdiction or under that of the State which undertakes their construction, and, with a view to their protection, may be surrounded by safety

Abbreviated title

Provisions

Cross reference

zones extending not more than 500 metres. Such artificial islands or immovable installations have no territorial sea of their own.

Article (d): Before commencing the construction of artificial islands or installations as mentioned in article (c), the State shall publish the plans thereof and take into consideration any observations submitted to it by other States. In the event of disagreement, an interested State which deems itself injured may appeal to ... 1/, which shall prescribe, where appropriate, such changes or adjustments as it considers essential to safeguard the lawful interests of other States.

C. The high seas beyond the limits of the continental shelf:

Article (e): Any construction of an artificial island or immovable installation on the high seas beyond the limits of the continental shelf shall be subject to the authority and jurisdiction of the international machinery for the sea bed. The international authority may authorize a State to erect such islands or installations and delegate jurisdiction over such structures to that State.

1/ It would seem advisable not to specify at present the body which would be competent to entertain such an appeal. It could be the tribunal of the international machinery, if that was thought appropriate, or there could be the triple possibility of recourse to IMCO in respect of complaints affecting navigation, to the regional fisheries organization in respect of those concerning fishing, or to the international authority for the marine environment and pollution, if one is established.

Abbreviated title

(29) Uruguay: territorial
sea

Provisions

SECTION IV. LAYING OF SUBMARINE PIPELINES AND CABLES

Article ...

"Subject to the regulations and measures referred to in article 16, the coastal State may not impede the laying or maintenance of submarine pipelines and cables on the bed of the area of its territorial sea situated beyond 12 nautical miles measured from the applicable baselines.

In such cases the coastal State shall be given advance notice and due account shall be taken of cables and pipelines already in position and, in particular, of the possibility of repairing them."

Article ...

"Any break in or damage to a submarine cable in the area referred to in the preceding article, caused deliberately or by culpable negligence, which interrupts or obstructs telegraphic or telephonic communications, and any break or damage caused, under the same conditions, in or to a high-voltage cable or submarine pipeline shall be punishable and shall give rise to the consequent liabilities under the laws of the coastal State and the jurisdiction of its courts.

Nothing in the laws enacted on the subject by the coastal State shall affect the lawful exercise of the right of other States to lay submarine pipelines and cables under the conditions laid down in these articles, or shall penalize the perpetrator of any break or damage if he acted solely for the legitimate purpose of protecting his life or the safety of his vessel after taking all necessary precautions to prevent such break or damage."

Provisions

Abbreviated title

(36) Ecuador, Panama and Peru:
draft articles

SECTION VII and PART III, article 24

"Section VII - Régime governing installations"

Article 11

The coastal State shall permit the laying of submarine cables and pipelines in its adjacent sea, without restrictions other than those that may result from the provisions referred to in article 4, paragraph 1.

Article 12

The emplacement and use of artificial islands and other installations and devices on the surface of the sea, in the water column and on the bed or in the subsoil of the adjacent sea shall be subject to authorization and regulation by the coastal State.

... (Complementary provisions on installations)

"Part III - International seas"

Article 24

The emplacement of artificial islands or any other type of installations apart from submarine cables or pipelines shall be subject to international regulations.

... (Complementary provisions on the international seas)

Cross reference

Abbreviated title

Provisions

(37) Malta: coastal state
jurisdiction

CHAPTER VIII, Articles 53-62, 74, and 100-105

Chapter VIII: Submarine cables

Article 53

Subject to the provisions of these articles, all States, whether coastal or not, shall enjoy the right to lay and to maintain submarine cables on the seabed of national ocean space.

Article 54

The coastal State must not hamper the exercise of the right to lay or to maintain submarine cables on the seabed of national ocean space beyond twelve nautical miles from the coast when cables are laid in accordance with such general and non-discriminatory regulations as may be adopted by the International Ocean Space Institutions or as are contained in widely ratified multilateral conventions.

Article 55

In the absence of relevant regulations adopted by the International Ocean Space Institutions or contained in widely ratified multilateral conventions, the coastal State may enact reasonable and non-discriminatory regulations relating to the laying of submarine cables in national ocean space.

Article 56

1. Coastal State regulations mentioned in the foregoing article may be brought to the attention of the International Ocean Space Institutions by any Contracting Party when these regulations are considered discriminatory or unreasonable or inconsistent with regulations adopted by the Institutions or contained in widely ratified multilateral conventions.

Abbreciated title

Provisions

Cross reference

2. The International Ocean Space Institutions may recommend that the coastal State rescind or modify regulations which are found to be discriminatory or to constitute an unreasonable impediment to the exercise of the right to lay submarine cables or to be inconsistent with regulations adopted by the Institutions.

3. In the event of continued disagreement between the International Ocean Space Institutions and the coastal State the matter shall be submitted to the International Maritime Court for binding adjudication.

Article 57

1. When laying submarine cables due regard shall be paid to cables already in position on the seabed: in particular the possibility of repairing existing cables shall not be prejudiced.

2. Failure to comply with the provisions of the foregoing paragraph entails legal responsibility.

Article 58

1. States and persons under their jurisdiction which own submarine cables in the national ocean space of another State shall transmit to that State and to the International Ocean Space Institutions a chart showing the position of the cables owned.

2. The coastal State has the obligation to protect submarine cables shown on charts transmitted to it.

Article 59

Every State shall take the necessary legislative measures to provide that the breaking or injury by a vessel flying its flag or by a person subject to its jurisdiction of a submarine cable in the national ocean space of another State done wilfully or through culpable negligence shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or vessels after having taken all necessary precautions to avoid such break or injury.

Abbreviated title

(37) Malta: coastal State
jurisdiction
(continued)

Provisions

Article 60

1. Every State shall take the necessary legislative measures to provide that any persons who cause a break in, or injury to, a submarine cable shall bear the cost of repairs.
2. Every State shall take the necessary legislative measures to ensure that owners of vessels who can prove that they sacrificed an anchor, a net or any fishing or other gear to avoid injuring a submarine cable in national ocean space shall be indemnified by the owner of the cable, provided that the owner of the vessel has taken all reasonable precautionary measures beforehand.

Article 61

Failure to take the measures mentioned in Articles 58, 59 and 60 may be brought to the attention of the International Ocean Space Institutions by any Contracting Party when interruption or obstruction has been caused to telegraphic or telephonic communications or to the supply of electric energy.

Article 62

1. The laying of submarine cables in a belt of ocean space adjacent to the coast not exceeding twelve nautical miles in breadth measured from the applicable baseline is subject to authorization of the coastal State.
2. The coastal State shall not normally withhold its authorization if the application is submitted by a responsible entity which gives assurance of abiding by the laws and regulations of the coastal State."

Cross reference

Abbreviated title

(37) Malta: coastal State
jurisdiction
(continued)

Provisions

Article 74

1. The coastal State may construct, maintain and operate
(a) underwater habitats, installations, equipment or devices for
scientific purposes on or in the seabed of its national ocean space;
(b) floating installations of whatever nature for scientific
purposes joined to the seabed, provided that:

(a) such general and non-discriminatory standards and rules as may
be adopted by the International Ocean Space Institutions are
observed;

(b) no interference is caused to sea lanes necessary to
international navigation;

(c) other activities in ocean space are not unreasonably hampered;

(d) appropriate safety zones are established around such habitats,
installations or devices;

(e) the International Ocean Space Institutions are promptly
notified of the location of such habitats, installations or devices
and of the breadth of the safety zones which have been established
around them;

(f) any habitats, installations, equipment or devices that are
abandoned or disused are entirely removed.

2. Non-compliance with the obligations contained in the foregoing
paragraph shall make the coastal State legally responsible in the event
of accidents of navigation.

Article 100

1. No State may utilize the national ocean space of another State
for the purpose of laying submarine pipelines without the consent of
that State.

2. Notwithstanding the provisions of the foregoing paragraph the
coastal State may not impede the maintenance of submarine pipelines
already in position on the seabed of its national ocean space.

Cross reference

6.9

Abbreviated title

Provisions

Cross reference

Article 101

1. Every coastal State may utilize its national ocean space for the purpose of laying submarine pipelines, provided that:

- (a) due regard is paid to pipelines already in position on the seabed;
- (b) the possibility of repairing existing pipelines is not prejudiced;
- (c) the pipelines conform to such international standards of construction as may be adopted by the International Ocean Space Institutions;
- (d) the pipelines cause no significant interference with other uses of ocean space and in particular with navigation, the exploitation of living resources and the laying and maintenance of submarine cables.

2. Every coastal State has the obligation to take and enforce in its national ocean space strict precautions in the construction, siting and maintenance of submarine pipelines containing petroleum, or substances which may cause serious deleterious effects to human health, to the living resources or to the quality of the marine environment. No such pipelines shall be laid in areas subject to frequent natural disasters.

Abbreviated title

(37) Malta: coastal State
jurisdiction
(continued)

Provisions

4 Failure on the part of the coastal State to comply with the provisions contained in the foregoing paragraphs of this article entails legal responsibility and the payment of damages in the event of significant deleterious effects on ocean space or its resources outside the jurisdiction of that State.

Cross reference

Article 102

1. States and persons under their jurisdiction which own or administer submarine pipelines in the national ocean space of another State shall transmit to that State and to the International Ocean Space Institutions a chart showing the position of the submarine pipelines owned or administered by them.

2. The coastal State has the obligation to protect submarine pipelines shown on the charts transmitted to it.

Article 103

Every State shall take the necessary legislative measures to provide that the breaking or injury by a vessel flying its flag or by a person subject to its jurisdiction of a submarine pipeline in the national ocean space of another State done wilfully or through culpable negligence shall be a serious punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or vessels after having taken all necessary precautions to avoid such break or injury.

Article 104

1. Every State shall take the necessary legislative measures to provide that any persons who cause a break in, or injury to, a submarine pipeline shall bear the cost of repairs and shall be responsible for the payment of damages in the event that deleterious effects have been caused to the quality of the marine environment or to the living resources therein.

Cross reference

Provisions

Abbreviated title

- | | |
|--|---|
| (37) Malta: coastal State jurisdiction (continued) | 2. Every State shall take the necessary legislative measures to ensure that owners of vessels who can prove that they sacrificed an anchor, a net or any fishing or other gear to avoid injuring a submarine pipeline in national ocean space shall be indemnified by the owner of the pipeline provided that the owner of the vessel has taken all reasonable precautionary measures beforehand. |
|--|---|

Article 105

Failure to take the precautions and measures mentioned in articles 101 and 102 may be brought to the attention of the International Ocean Space Institutions by any Contracting Party when interruption has been caused to the flow of petroleum, water, gas or other substance contained in the pipeline."

- | | |
|---------------------------|--|
| (43) China: working paper | 2. Exclusive Economic Zone or Exclusive Fishery Zone |
|---------------------------|--|
- (4) The normal navigation and overflight on the water surface of and in the airspace above the economic zone by ships and aircraft of all States shall not be prejudiced. The delineation of the course for laying cables and pipelines in the seabed of the economic zone is subject to the consent of the coastal State.

.....

3. Continental Shelf

(4)

The delineation of the course for laying submarine cables and pipelines on the continental shelf by a foreign State is subject to the consent of the coastal State.

Abbreviated title

(44) USA: coastal
seabed economic area

Provisions

ARTICLE 1, 3-7 and ARTICLE 3, PARA.2

Article 1:

3. The coastal State shall in addition have the exclusive right to authorize and regulate in the Coastal Seabed Economic Area or the superjacent waters:

- (a) the construction, operation and use of offshore installations affecting its economic interests, and
- (b) drilling for purposes other than exploration and exploitation of resources.

4. The coastal State may, where necessary, establish reasonable safety zones around such offshore installations in which it may take appropriate measures to protect persons, property, and the marine environment. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function of the installation. The breadth of the safety zones shall be determined by the coastal State and shall conform to international standards in existence or to be established pursuant to Article 3.

5. (a) For the purposes of this Chapter, the term "installations" refers to all offshore facilities, installations, or devices other than those which are mobile in their normal mode of operation at sea.

(b) Installations do not possess the status of islands. They have no territorial sea or Coastal Seabed Economic Area of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

6. The coastal State may, with respect to the activities set forth in this Article, apply standards for the protection of the marine environment higher than those required by applicable international standards pursuant to Article 2.

Abbreviated title

Provisions

Cross reference

7. The coastal State may, with respect to the activities set forth in this Article, take all necessary measures to ensure compliance with its laws and regulations subject to the provisions of this Chapter.

Article 3

2. States shall ensure compliance with international standards in existence or to be promulgated by Inter-Governmental Maritime Consultative Organization in consultation with the Authority:

(a) regarding the breadth, if any, of safety zones around offshore installations;

(b) regarding navigation outside the safety zones, but in the vicinity of offshore installations.

6.3

(46) Argentina:
draft articles

Paras. 13 and 23-26

13. In the maritime area adjacent to the territorial sea, ships and aircraft of all States, whether coastal or not, have the right to free navigation and overflight without restrictions other than those which may result from the exercise by the coastal State of its rights in the matters of exploration, conservation and exploitation of resources, pollution and scientific research. Subject solely to these limitations, there shall also be freedom to lay submarine cables and pipelines.

23. A coastal State shall authorize the laying of submarine cables and pipelines on the continental shelf, without restrictions other than those which may result from its rights over the same.

24. The establishment of any other type of installation by third States or their nationals is subject to the permission of the coastal State.

Abbreviated title

Provisions

Cross reference

25. The coastal State is entitled to construct, maintain or operate on or over the continental shelf installations and other devices necessary for the exercise of its rights over the same, to establish safety zones around such devices and installations and to take in those zones measures necessary for their protection. Ships of all nationalities shall respect these safety zones, which may extend up to 500 metres around the installations or devices.

26. The construction of any installation or device shall be officially made public and permanent means of giving warning of its presence shall be maintained. Any installation which is disused shall be removed by the coastal State.

(48) Fourteen Powers:
Exclusive economic
zone

"ARTICLE IV

In the Economic Zone, ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight and to lay submarine cables and pipelines with no restrictions other than those resulting from the exercise by the coastal State within the area."

6.3

(50) Uganda and Zambia:
Economic Zone

Article 4, para. 5

5. The provisions of the preceding paragraphs of this Article shall not affect the freedoms of navigation, overflight, and the laying of submarine cables and pipelines referred to in Article _____ which shall be applicable in the Regional or Sub-regional zones.

6.3
Texts of para-
graphs 1-4
reproduced in
6.4, 6.5 and
6.7.3

19. REGIME OF ISLANDS

19 (a) Islands under colonial dependence or foreign domination or control

19 (b) Other related matters

Cross reference

Provisions

Abbreviated title

(28) OAU Declaration

"Part B, para 5:

5. That the African States recognize the need for a proper determination of the nature of maritime spaces of islands and recommend that such determination should be made according to equitable principles taking account of all relevant factors and special circumstances including:

- (a) The size of islands
- (b) Their population or the absence thereof
- (c) Their contiguity to the principal territory
- (d) Their geological configuration
- (e) The special interest of islands States and archipelagic States."

(29) Uruguay: territorial
 sea

"Article 11:

Identical with article 10 of the Geneva Convention (islands).

[Article 10

- 1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.
- 2. The territorial sea of an island is measured in accordance with the provisions of these articles.]"

2.3.1

Abbreviated title

(37) Malta: coastal
State jurisdiction

Provisions

"Articles 11 (2-3), 12-15:

2. The jurisdiction of an island State or of an archipelago State may extend to a belt of ocean space adjacent to the coast of the principal island or islands, the breadth of which is 200 nautical miles measured from baselines drawn in accordance with the provisions of Chapter III of this convention. The principal island or islands of an archipelago State shall be designated by the State concerned and notified to the International Ocean Space Institutions. In the event of disagreement with the designations made by the archipelago State any Contracting Party may submit the matter to the International Maritime Court for binding adjudication.

3. When islands are less than ten square kilometers in area, the jurisdiction of the State exercising sovereignty or control may extend only to a belt of ocean space, adjacent to the coasts of such an island, the breadth of which does not exceed twelve nautical miles measured from the applicable baseline.

Article 12.

Atolls are a chain of islands or islets crowning a circular or oval reef which encloses a lagoon.

Article 13.

1. In the case of atolls the baseline for measuring the breadth of national ocean space is the seaward edge of the reef whether or not the reef is submerged at high tide.

2. If the distance between the low-water marks of the natural entrance points of the reef does not exceed 24 nautical miles, a closing line may be drawn between these low-water marks and the waters enclosed thereby shall be considered as internal waters.

Cross reference

6.5, 16

Abbreviated title

(37) Malta: coastal
State jurisdiction
(continued)

Provisions

3. Where the distance between the low-water marks of the natural entrance points of the reef exceeds 24 nautical miles straight baselines of 24 nautical miles may be drawn within the reef in such a manner as to enclose the maximum area of water that is possible with lines of that length."

Article 14.

"1. Jurisdiction over ocean space outside the area enclosed by the reef may not be claimed by a State by virtue of sovereignty or control over an atoll when the total land area of the islets crowning the reef does not exceed one square kilometre.

2. When the islands or islets crowning the reef of an atoll have a total land area exceeding one square kilometre but less than ten square kilometres, the jurisdiction of the State exercising sovereignty or control may extend to a belt of ocean space adjacent to the outer edge of the reef the breadth of which does not exceed twelve nautical miles."

Article 15.

"The extent of jurisdiction over ocean space which may be claimed by a State by virtue of sovereignty or control over islands and atolls other than those referred to in the foregoing articles of this chapter shall be determined in a special convention or conventions to be negotiated within the framework of the International Ocean Space Institutions taking into account all relevant circumstances."

Cross reference

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(38) Greece: Islands	"Paras 1-5; 1. An island is a naturally formed area of land, surrounded by water which is above water at high-tide. 2. An island forms an integral part of the territory of the State to which it belongs. The territorial sovereignty over the island extends to its territorial waters, to the air space over the island and its territorial sea and to its bed and subsoil and to its continental shelf for the purpose of exploring it and exploiting its natural resources.	2.1
	3. The territorial area of the island is determined in accordance with the same provisions applicable for the measurements of the territorial sea of the continental part of the territory of the State. 4. The provisions applicable for the determination of the continental shelf and the zones of national jurisdiction of the continental part of the State are as a general rule applicable to islands. 5. The above provisions do not prejudice the régime of archipelagic islands.	2.3.2 5.2
(43) China: working paper	"1. Territorial sea (5) The breadth and limits of the territorial sea as defined by a coastal State are, in principle, applicable to the islands belonging to that State."	6.

Abbreviated title

(49) Fourteen Powers:
draft articles

Provisions

"Article XII

1. Maritime spaces of islands shall be determined according to equitable principle taking into account all relevant factors and circumstances including, inter alia:

- (a) The size of islands;
- (b) The population or the absence thereof;
- (c) Their contiguity to the principal territory;
- (d) Whether or not they are situated on the continental shelf of another territory;
- (e) Their geological and geomorphological structure and configuration.

2. Island States and the régime of archipelagic States as set out under the present Convention shall not be affected by this article."

(52) Cameroon, Kenya,
Madagascar, Tunisia
and Turkey: Islands

"1. Maritime spaces of islands shall be determined according to equitable principles taking into account all relevant factors and circumstances including, inter alia:

- (a) The size of islands;
- (b) The population or the absence thereof;
- (c) Their contiguity to the principal territory;
- (d) Whether or not they are situated on the continental shelf of another territory;
- (e) Their geological and geomorphological structure and configuration.

"2. Island States and the régime of archipelagic States as set out under the present Convention shall not be affected by this article."

Cross reference

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(62) Romania: régime of islands	<p>1. Islets and small islands, uninhabited and without economic life, which are situated on the continental shelf of the coast do not possess any of the shelf or other marine space of the same nature.</p> <p>2. Such islands may have waters - of their own or forming part of the territorial sea of the coast - the extent of which shall be determined by agreement, taking into account all the circumstances affecting the maritime area concerned and all relevant geographical, geological and other features. The waters thus determined shall not, in any event, affect marine spaces which belong to the State or to neighbouring States.</p>	<p>5.3</p> <p>2.3.1</p>

21. SETTLEMENT OF DISPUTES

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
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(7) USSR: Fisheries 7.6

"7. Disputes between States on matters connected with the application of the provisions of this article may, at the request of one of the parties to the dispute, be settled by arbitration unless the parties agree to settle it by other means of pacific settlement provided for in Article 33 of the United Nations Charter."

"IV. Concerning settlement to the conflicts which may arise between coastal States and the international community.

(8) Yaoundé: conclusions

In the light of their discussions the Seminar approves the principle of setting up an international governing body to manage the common heritage outside the limits of national jurisdiction. It considers that this body must conform with the spirit of the resolution which provided for its creation, and for this reason must be structured and operate in such a way that the developing countries should be the primary controllers and beneficiaries.

The Seminar recommends that the international body should carry out its wish on the Sea-bed and subsoil for the benefit of the international community.

Therefore, it considers that its action will depend on the desire of States to extend their limits of jurisdiction. The Seminar noted that it was important for this body to avoid being a simple administrative apparatus issuing licences and distributing royalties.

It considers that to be efficient the International body must seek the best ways and means to involve the business concerns of developing countries in exploiting the resources available in its zone of using these resources to promote the progress of mankind in the developing countries so as to correct the grave imbalance between the nations.

The Seminar considers that all these objectives can be achieved if the participation of developing countries in the planning, setting up and operation of this body is assured without restriction."

Abbreviated titleProvisionsCross reference

(12) USA: Fisheries

"Any dispute which may arise between States under this article shall, at the request of any of the parties to the dispute, be submitted to a special commission of five members unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations. The commission shall proceed in accordance with the following provisions.

7.6

A. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within two months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon request of any State party to the dispute, be named by the Secretary-General of the United Nations, within a further two-month period, in consultation with the States involved and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

E. The special commission shall render its decision, which shall be binding upon the parties, within a period of five months from the time it is appointed unless it decides, in the case of necessity to extend the time limit for a period not exceeding two months.

F. The special commission shall, in reaching its decision, adhere to this article and to any agreements between the disputing parties implementing this article."

(28) OAU Declaration

Part D. para. 11

Text reproduced in 15

Abbreviated titleProvisions

(37) Malta: coastal
State jurisdiction

Chapter XII: Living resources of national ocean space

Article 86

"Disagreements between coastal States or between the International Ocean Space Institutions and a coastal State relating to matters contained in articles 83 and 85 shall be submitted to the International Maritime Court for binding adjudication."

Chapter XIV: Mineral and other non-living resources of national ocean space

Article 95

"2. In the event of disagreement between the coastal States concerned, the matter shall be submitted to arbitration or to the International Maritime Court for an advisory opinion at the request of any of the States concerned.

3. The provisions of the foregoing paragraphs shall apply also to the International Ocean Space Institutions in the event that a petroleum or natural gas structure or field or any single geological field or structure of any other mineral deposit extends across the line dividing national ocean space from international ocean space."

(44) United States of
America: coastal
sea-bed economic
area

"Article 5

1. Any dispute between two or more Contracting Parties with respect to the interpretation or application of this Chapter shall, if requested by any party to the dispute, be resolved by the compulsory dispute settlement procedure contained in article, of Chapter

Abbreviated title

(44) United States of
America: coastal
sea-bed economic
area
(continued)

Provisions

2. In the case of a dispute involving a violation of article 2 (d) of this Chapter, 1/ if the Contracting Party of which a natural or juridical person is a national has not brought a complaint under paragraph 1 of this article, such person may submit the dispute for settlement in accordance with the 1962 Rules of Arbitration and Conciliation for Settlement of International Disputes Between Two Parties of Which Only One Is a State, adopted by the Permanent Court of Arbitration.

Cross reference

1/ Article 2 (d) of the Chapter reads as follows:

"(d) the coastal State shall ensure that licences, leases, or other contractual arrangements which it enters into with the agencies or instrumentalities of other States, or with natural or juridical persons which are not nationals of the coastal State, for the purpose of exploring for or exploiting sea-bed resources are strictly observed according to their terms. Property of such agencies, instrumentalities or persons shall not be taken except for a public purpose, on a non-discriminatory basis, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken and adequate provision shall have been made at or prior to the time of the taking to ensure compliance with the provisions of this paragraph."

Abbreviated title

- (47) Canada, India, Kenya,
Senegal, Sri Lanka:
Fisheries

ProvisionsARTICLE 13

"The jurisdiction and control over all fishing activities within the exclusive fishery zone shall lie with the coastal State concerned. Any difference or dispute concerning the limits of the zone or the interpretation or validity of the terms, conditions or regulations referred to in Article 5, or the interpretation and application of these Articles shall be settled by the competent institutions of the coastal State concerned.

Any difference or dispute concerning fishing activities outside the exclusive fishery zone shall be referred to the Authority designated for the purpose by the Conference on the Law of the Sea."

- (48) Afghanistan, Austria,
Belgium, Bolivia,
Nepal, Singapore
resource jurisdiction

"ARTICLE IV

Any dispute arising from the interpretation and application of the provisions of the foregoing Articles shall be subject to the procedures for the compulsory settlement of disputes provided for in the Convention."

- (49) Fifteen power draft:
exclusive economic
zone

"Article IX

The delineation of the Economic Zone between adjacent and opposite States shall be carried out in accordance with international law. Disputes arising therefrom shall be settled in conformity with the Charter of the United Nations and any other relevant regional arrangements."

6.7.2

Cross reference

Abbreviated title

- (66) United States of
America: the
settlement of
disputes
(continued)

Provisions

ARTICLE 3

Notwithstanding the provisions of article 2, if the parties to a dispute have agreed in any general, regional, or special agreement to resort to arbitration, any party to the dispute shall be entitled to refer it to arbitration in accordance with that agreement in place of the procedures specified in this Chapter.

ARTICLE 4

The Tribunal shall be established and shall function in accordance with the annexed Statute. Its members shall be nominated and elected in accordance with the procedure provided for in the Statute of the International Court of Justice for the election of the judges of the Court. They shall be lawyers of recognized competence in law of the sea matters.

ARTICLE 5

When a dispute involves technical questions, such as safety of navigation, ship construction, pollution, scientific research, fishing or sea-bed exploration or exploitation, the Tribunal shall be assisted in the consideration of the case by four technical assessors sitting with it, but without the right to vote. These assessors shall be chosen by the President of the Tribunal from the list of qualified persons prepared pursuant to the annexed Statute.

ARTICLE 6

The jurisdiction of the Tribunal shall comprise all disputes submitted to it in accordance with this Chapter and all matters specifically provided for in other Chapters

Cross reference

Abbreviated title

(66) United States of
America: the
settlement of
disputes
(continued)

Provisions

of this Convention or in any other international agreement, public or private, which confers jurisdiction on the Tribunal with respect to a dispute relating to the interpretation or application of this Convention.

Cross reference

ARTICLE 7

The decisions of the Tribunal shall be binding upon the parties.

ARTICLE 8

1. The Tribunal shall expeditiously handle disputes which are of an urgent character and shall in appropriate cases issue binding interim orders for the purpose of minimizing damage to any party pending final adjudication. The Tribunal may also take such binding interim action in cases which have been submitted to arbitration under articles 1 or 3.

2. The owner or operator of any vessel detained by any State shall have the right to bring the question of the detention of the vessel before the Tribunal in order to secure its prompt release in accordance with the applicable provisions of this Convention, without prejudice to the merits of any case against the vessel.

3. Nothing in these articles shall abridge the sovereign immunity to which certain vessels and aircraft are entitled under international law.

ARTICLE 9

Any undertaking to have recourse to a particular means for compulsory settlement of a dispute relating to the interpretation or application of this Convention,

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(66) United States of America: the settlement of disputes (<u>continued</u>)	whether contained in a general, regional or special international agreement, a licence, lease or contract, constitutes an obligation to be carried out in good faith.	
(67) Netherlands: intermediate zone	Article (6) - Text reproduced in 7.1 under (67).	7.1

22. Peaceful uses of the ocean space: Zones of peace and security

Provisions

Abbreviated title

Cross reference

(28) OAU: Declaration

Part G, para. 14:

"14. All States regardless of their geographical situation have the right to carry out scientific research in the marine environment. The research must be for peaceful purposes and should not cause any harm to the marine environment.

Scientific research in the territorial sea or in the exclusive economic zone shall only be carried out with the consent of the coastal state concerned."

(36) Ecuador, Panama, Peru:
Draft articles

"Article 17

The term 'international seas' shall denote that part of the sea which is not subject to the sovereignty and jurisdiction of coastal States

8.1

Article 18

The international seas shall be open to all States, whether coastal or land-locked, and their use shall be reserved for peaceful purposes."

(37) Malta: coastal State
jurisdiction

"Chapter X: Peaceful Uses

"Article 76

Article 76

1. No State may utilize the seabed of national ocean space of another State for military purposes without the latter's consent.

Abbreviated title

(37) Malta: coastal State
jurisdiction
(continued)

Provisions

Article 78

Nuclear and thermonuclear explosions for peaceful purposes in national ocean space are permitted only with the authorization of the International Ocean Space Institutions.

Article 79

Non-compliance with the provisions of the foregoing articles may be brought to the attention of the International Ocean Space Institutions by any Contracting Party."

(49) Fifteen power:
draft: exclusive
economic zone

"Article V

Each State shall ensure that any exploration or exploitation activity within its Economic Zone is carried out exclusively for peaceful purposes and in such a manner as not to interfere unduly with the legitimate interests of other States in the region or those of the International Community."

Cross reference

23. ARCHAEOLOGICAL AND HISTORICAL TREASURES OF THE SEAFLOOR AND
OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION

24. TRANSMISSION FROM THE HIGH SEAS

25. ENHANCING THE UNIVERSAL PARTICIPATION OF STATES IN
UNILATERAL CONVENTIONS RELATING TO THE LAW OF THE SEA

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