



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

Volume VI

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 and 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 V contains annex II, appendix VII.

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I. LIST OF PROPOSALS, DECLARATIONS, WORKING PAPERS, ETC.
(listed in order of submission)

<u>Abbreviation</u>	<u>Full title</u>	<u>Symbol</u>
(1) USA	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	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	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	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	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	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	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 in the General Report of the African States Regional Seminar on the Law of the Sea, held in Yaoundé from 20-30 June 1972	A/AC.138/79 of 21 July 1972; A/8721, pp. 73-76
(9) USSR	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

<u>Abbreviation</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	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	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	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	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	Proposals for a régime 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	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 PHILIPPINES	Archipelagic principles as proposed by the delegations of Fiji, Indonesia, Mauritius and Philippines	A/AC.138/SC.II/L.15 of 14 March 1973
(19) NETHERLANDS	Netherlands: Working Paper concerning the concept of an intermediate zone	A/AC.138/86 of 16 March 1973 (superseded by document A/AC.138/SC.II/L.59 of 17 August 1973)
(20) TURKEY 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

<u>Abbreviation</u>	<u>Full title</u>	<u>Symbol</u>
(21) GREECE <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) <u>7</u>	A/AC.138/SC.II/L.17 of 27 March 1973
(22) CYPRUS, GREECE, INDONESIA, MALAYSIA, MOROCCO, PHILIPPINES, SPAIN and YEMEN	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	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 <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	Colombia, Mexico and Venezuela: draft articles of treaty	A/AC.138/SC.II/L.21 of 2 April 1973
(26) TURKEY 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
(27) ICELAND	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)

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>Abbreviation</u>	<u>Full title</u>	<u>Symbol</u>
(29) URUGUAY	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: Working paper submitted by Belgium	A/AC.138/91 of 11 July 1973
(31) BOLIVIA	Bolivia: draft articles relating to land-locked countries	A/AC.138/92 of 12 July 1973
(32) TURKEY	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/ Rev.1 of 12 July 1973
(33) 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	A/AC.138/SC.II/L.22/ Rev.1 of 13 July 1973
(34) BRAZIL	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	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 and Corr.1
(36) ECUADOR, PANAMA and PERU	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 Corr.2 (E only)
(37) MALTA	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

<u>Abbreviation</u>	<u>Full title</u>	<u>Symbol</u>
(38) GREECE	Greece: draft article under item 19, régime 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	Italy: draft article on straits	A/AC.138/SC.II/L.30 of 16 July 1973
(40) TUNISIA and TURKEY	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	Tunisia and Turkey: subamendment 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	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 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	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
(45) AUSTRALIA and NORWAY	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
(46) ARGENTINA	Argentina: draft articles	A/AC.138/SC.II/L.37 of 16 July 1973
(47) CANADA, INDIA, KENYA, MADAGASCAR, SENEGAL and SRI LANKA	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	Draft articles on resource jurisdiction of coastal States beyond the territorial sea	A/AC.138/SC.II/L.39 of 16 July 1973

<u>Abbreviation</u>	<u>Full title</u>	<u>Symbol</u>
(49) FOURTEEN POWER	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 Corr.2 (E only) Corr.3
(50) UGANDA and ZAMBIA	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	Draft articles relating to passage through the territorial sea	A/AC.138/SC.II/L.42 of 19 July 1973

2. TERRITORIAL SEA

2.1 Nature and characteristics, including the question of the unity
or plurality of régimes in the territorial seaArticle 1 (1)

- | | |
|--|--|
| (10) Santo Domingo Declaration; (50) Uganda, Zambia | 1. <u>/The sovereignty of a State/</u> |
| (25) Colombia, Mexico, Venezuela; (29) Uruguay; | <u>/The sovereignty of a coastal State/</u> |
| (43) China; (46) Argentina | <u>/The jurisdiction of a State/</u> |
| (37) Malta | |
| | 2. <u>/extends/</u> |
| (10) Santo Domingo Declaration; (50) Uganda, Zambia | 3. <u>/beyond its land territory and its internal waters/</u> |
| (10) Santo Domingo Declaration | 4. <u>/to an area of the sea adjacent to its coast/</u> |
| (25) Colombia, Mexico, Venezuela | to <u>/an area of the sea immediately contiguous to its territory and inland waters/</u> |
| (29) Uruguay | to <u>/a belt of sea adjacent to its coast and to its internal waters/</u> |
| (37) Malta | <u>/to a belt of ocean space adjacent to its coast/</u> |
| (46) Argentina; (50) Uganda, Zambia | <u>/to a belt of sea adjacent to its coast/</u> |
| (43) China | to <u>/a specified area of sea adjacent to its coast or internal waters/</u> |
| (10) Santo Domingo Declaration; (25) Colombia, Mexico, Venezuela | 5. <u>/designated as the territorial sea/</u> |
| (29) Uruguay; implicitly (43) China; (46) Argentina; | <u>/described as the territorial sea/</u> |
| (50) Uganda, Zambia | |
| (37) Malta | <u>/described as national ocean space/</u> |

- (10) Santo Domingo Declaration
- (25) Colombia, Mexico, Venezuela
- (29) Uruguay; (43) China; (46) Argentina;
- (50) Uganda, Zambia

- 6. /and to/
/including/
- 7. /the superjacent air space as well as the
subjacent sea-bed and the subsoil/
its /sea-bed and subsoil and the superjacent
air space/
/the air space over the territorial sea and
its bed and subsoil/

Article 1 (2)

- (25) Colombia, Mexico, Venezuela; (50) Uganda,
Zambia
- (37) Malta
- (25) Colombia, Mexico, Venezuela; (37) Malta;
(50) Uganda, Zambia
- (37) Malta; (50) Uganda, Zambia
- (25) Colombia, Mexico, Venezuela
- (25) Colombia, Mexico, Venezuela; (37) Malta;
(50) Uganda, Zambia

- (1) /This sovereignty/
/This jurisdiction/
- (2) /is exercised/
- (3) /subject to/
/in accordance with/
- (4) /the provisions of these articles and other
rules of international law/

Article 2

- (43) China /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./

(Note: See also texts under 4. Straits used
for international navigation.)

2.2 Historic waters

Article 1

(8) Yaoundé Conclusions

1. /Historic rights acquired by a State in a part of the sea which falls within the exclusive jurisdiction of another State shall be recognized and safeguarded./
2. /The impossibility for a State to provide evidence of an uninterrupted claim over a historic bay shall not constitute an obstacle to the recognition of the rights of that State over such a bay./

Note: Territorial sea of States whose coasts are opposite or adjacent to each other: see article 3 under 2.3.2 (Breadth of the territorial sea)

Articles 3 to 18 of the proposal submitted by Malta (37) set forth provisions relating to baselines for measuring "the breadth of national ocean space", and to "limits of national ocean space". Although these provisions do not relate directly to the delimitation of the territorial sea, they were regarded to be relevant to the issues involved under 2.3.1. Hence, the Maltese draft articles are reproduced (in B) as an alternative to the articles proposed by Uruguay (A) and cross references were made to both alternatives where provisions were comparable.

Article 1

(29) Uruguay

/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./

(A)

Article 2

(29) Uruguay (identical with art. 3 of the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958)

/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./ (See also article 3 of the proposal of Malta (37) below (B) article 1.)

Article 3 (1)

(29) Uruguay (identical with art. 4, para. 1, of the same Convention)

/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./ (See also article 4 (1) of the proposal of Malta (37).)

Article 3 (2)

- (29) Uruguay (identical with art. 4, para. 2, of the same Convention)

/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./ (See also article 4 (2) of the proposal of Malta (37).)

Article 3 (3)

- (29) Uruguay (identical with art. 4, para. 3, of the same Convention)

/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./ (See also article 4 (3) and (4) of the proposal of Malta (37).)

Article 3 (4)

- (29) Uruguay (identical with art. 4, para. 4, of the same Convention)

/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./

Article 3 (5)

- (29) Uruguay (identical with art. 4, para. 5, of the same Convention)

/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./ (See also article 4 (5) of the proposal of Malta (37).)

Article 3 (6)

- (29) Uruguay (identical with art. 4, para. 6, of the same Convention)

/The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given./ (See also article 4 (6) and also 4 (7) of the proposal of Malta (37).)

Article 4

- (29) Uruguay (identical with art. 6, of the same Convention)

/The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea./
(See also article 16 of the proposal of Malta (37).)

Article 5 (1)

- (29) Uruguay (identical with art. 10, para. 1, of the same Convention)

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

Article 5 (2)

- (29) Uruguay (identical with art. 10, para. 2, of the same Convention)

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

Article 6 (1)

- (29) Uruguay (identical with art. 7, para. 1, of the same Convention)

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

Article 6 (2)

- (29) Uruguay (identical with art. 7, para. 2, of the same Convention)

/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./

Article 6 (3)

- (29) Uruguay (identical with art. 7, para. 3, of the same Convention)

/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.

Article 6 (4)

- (29) Uruguay (identical with art. 7, para. 4, of the same Convention)

/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. (See also article 6 (1) of the proposal of Malta (37).)

Article 6 (5)

- (29) Uruguay (identical with art. 7, para. 5 of the same Convention)

/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. (See also article 6 (2) of the proposal of Malta (37).)

Article 6 (6)

- (29) Uruguay (identical with art. 7, para. 6, of the same Convention)

/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. (See also article 6 (3) and also (4) of the proposal of Malta (37).)

Article 7

- (29) Uruguay (identical with art. 8 of the same Convention)

/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. (See also article 7 of the proposal of Malta (37).)

Article 8

- (29) Uruguay (identical with art. 9 of the same Convention)

/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 9 (1)

- (29) Uruguay (identical with art. 11, para. 1, of the same Convention)

/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 of that elevation may be used as the baseline for measuring the breadth of the territorial sea./

Article 9 (2)

- (29) Uruguay (identical with art. 11, para. 2, of the same Convention)

/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 10

- (29) Uruguay (identical with art. 13 of the same Convention)

/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 of its banks./ (See also article 8 of the proposal of Malta (37).)

Article 11 (1)

- (29) Uruguay (identical with art. 5, para. 1, of the same Convention)

/Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State./ (See also article 5 (1) of the proposal of Malta (37).)

Article 11 (2)

(29) Uruguay (identical with art. 5, para. 2, of the same Convention)

/Where the establishment of a straight baseline in accordance with article 3 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 ... , 1/ shall exist in those waters./ (See also article 11 (2) of the proposal of Malta (37).)

OR

(B) alternative to articles 2 to 11 (2) above

Article 1

(37) Malta

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

Article 2

(37) Malta

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./ 3/

1/ i.e. articles 14 to 23 of the Geneva Convention on the Territorial Sea and the Contiguous Zone.
2/ Slight modification of article 3, 1958 Territorial Sea Convention.
3/ Gives more precision to article 4 (1), 1958 Territorial Sea Convention.

(37) Malta (continued)

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 régime of internal waters./ 1/

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./ 2/

4. /Baselines shall not be drawn from man-made islands, or from off-shore 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./ 3/

6. /The coastal State must clearly indicate straight baselines on large-scale charts which shall be deposited with the International Ocean Space Institutions./ 4/

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./

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

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

3/ See article 4 (5), 1958 Territorial Sea Convention.

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

Article 3

2.3.1
page 20

(37) Malta

1. /Waters on the landward side of the baseline of national ocean space form part of the internal waters of a State./ 1/
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./ 2/

Article 4

(37) Malta

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./ 3/
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./ 4/
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 2 is applied./ 5/

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

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

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

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

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

Article 4 (continued)

(37) Malta (continued)

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 5

(37) Malta

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 6

(37) Malta

/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/ See article 13, 1958 Territorial Sea Convention.

Article 7

(37) Malta

/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 8

(37) Malta

1. /When reefs, low tide elevations and islets are not situated within national ocean space, as defined in article 11, safety zones not exceeding 12 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.

Article 8 (continued)

(37) Malta (continued)

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 uses 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./

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

Article 1

- | | |
|---|---|
| <p>(4) USA; (17) USSR; (32) Turkey</p> | <p>1. <u>/Each State shall have the right to establish the breadth of its territorial sea/</u></p> |
| <p>(10) Santo Domingo Declaration;
(29) Uruguay; (34) Brazil</p> | <p><u>/Each State has the right to establish the breadth of its territorial sea/</u></p> |
| <p>(36) Ecuador, Panama, Peru</p> | <p><u>/The sovereignty of the coastal State and, consequently, the exercise of its jurisdiction, shall extend to the sea adjacent to its coast/</u></p> |
| <p>(43) China</p> | <p><u>/A coastal State is entitled to reasonably define the breadth and limits of its territorial sea/</u></p> |
| <p>(46) Argentina</p> | <p><u>/It is for each State to fix the breadth of its territorial sea/</u></p> |
| <p>(4) USA; (17) USSR; (29) Uruguay;
(32) Turkey</p> | <p>2. <u>/, subject to the provisions of ... 1/</u></p> |
| <p>(4) USA, (6) Afghanistan, Austria,
Belgium, Hungary, Nepal,
Netherlands, Singapore; (8) Yaoundé
Conclusions; (17) USSR;
(25) Colombia, Mexico, Venezuela;
(46) Argentina</p> | <p>3. <u>/within limits of no more than 12 nautical miles/</u></p> |
| <p>(29) Uruguay; (34) Brazil</p> | <p><u>/within limits not exceeding a distance of 200 nautical miles/</u></p> |

1/ The USA proposal (4) refers to the provisions of article II of its proposal concerning freedom of navigation in straits. The USSR proposal (17) refers to the articles of its proposal on straits used for international navigation (9). The proposal by Uruguay (29) refers to the provisions of the "succeeding paragraphs" of its proposal regarding areas with special characteristics. The proposal by Turkey (32) refers to the provisions of paragraph 2 of its proposal regarding areas with special characteristics.

(34) Brazil; (36) Ecuador, Panama, Peru

[up to a limit not exceeding a distance of 200 nautical miles, taking into account geographical, social, economic, ecological and national security factors, (as well as considerations of the preservation of the marine environment)]

(32) Turkey

[within limits of no more than (...) miles]

(50) Uganda, Zambia

whose [uniform outer limit is the line every point of which is at a distance from the nearest point of the baseline equal to (...) nautical miles]

(4) USA; (17) USSR

4. [measured in accordance with the provisions of the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone]

(6) Afghanistan, Austria, Belgium, Hungary, Nepal, Netherlands, Singapore; (25) Colombia, Mexico, Venezuela; (29) Uruguay; (36) Ecuador, Panama, Peru

[measured from the applicable baseline]

(34) Brazil

[measured from the baselines determined in accordance with article of the present Convention]

Article 2 (1)

(29) Uruguay (32) Turkey

1. [In (regions) areas with special characteristics]

(29) Uruguay

2. [such as semi-enclosed or inland seas where it is impossible for coastal States to fix the maximum breadth of their territorial seas]

(32) Turkey

[such as the semi-closed and enclosed seas, where the exercise by one State of its right to determine the breadth of its territorial sea may prejudice the rights and interests of other States of the area]

(29) Uruguay

3. /the breadth of the territorial seas shall be determined by agreement between the coastal States of the same region/

(32) Turkey

/the determination of the breadth of the territorial sea, within the limits specified in article 1, shall be effected by the agreement of the States of that area/

Article 2 (2)

(21) Greece

/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/

Article 3 (1)

(23) Cyprus (29) Uruguay (33) Turkey
(43) China (50) Uganda and Zambia

1. /Where the coasts of two or more States are opposite or adjacent to each other/

(50) Uganda and Zambia

2. /and the distance between them is less than double the uniform breadth provided in this (Convention)/

(23) Cyprus (29) Uruguay

3. /failing agreement between them to the contrary/

(23) Cyprus (29) Uruguay
(50) Uganda and Zambia

4. A /neither of them is entitled to extend its territorial sea beyond the median line, every point of which is equidistant from

(50) Uganda and Zambia
(40) Tunisia and Turkey
(23) Cyprus (29) Uruguay

/or baselines/
the nearest points /on the continental baselines/
/on the continental or insular baselines/

from which the breadth of the territorial seas of each of the two States is measured,/

(33) Turkey

OR B /the delimitation of the respective maritime boundaries shall be determined/

(43) China

/the boundaries between their territorial sea shall be defined/

- (33) Turkey 5. [by agreement among them in accordance with equitable principles, taking into account all the relevant circumstances]
- (43) China [on the principle of mutual respect for sovereignty and territorial integrity, equality and reciprocity].

Article 3 (2)

- (50) Uganda and Zambia [The provisions of paragraph (1) shall not apply, however, when 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.]

Article 3 (3)

- (33) Turkey [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.]

Article 3 (4)

- (33) Turkey [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.]

Article 3 (5)

- (33) Turkey [In the absence of special circumstances, due regard should be given to the principles of median line or equidistance in delimitation of respective boundaries.]

Article 4 (1)

(43) China

[Coastal States in the same region may, through consultations on an equal footing, define a unified breadth or a limit for the territorial sea in the region.]

Article 4 (2)

(34) Brazil

[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 5

(34) Brazil

[Within the limitations determined by Article 1, 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 coast]

Note: Territorial sea of an archipelagic State: see Article 1 under 16. Archipelagos below.

2.4 Innocent passage in the territorial sea*

Section I. Rules applicable to all ships

Sub-section A. Right of innocent passage

(A)

Article 1 (1)*

- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen 1. /Subject to the provisions of ... 1/
- (29) Uruguay (46) Argentina
- (25) Colombia, Mexico, Venezuela /Without prejudice to the provisions of ... 2/
- (10) Santo Domingo Declaration 2. /ships of all States, whether coastal or not, 1/
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen
- (25) Colombia, Mexico, Venezuela

* Articles 20 to 35 (Part II, Rights and obligations over the coastal State within national ocean space, Chapter VI, Navigation) of the proposal of Malta (37) refer to "the right of passage" through "national ocean space". These articles are reproduced in the relevant sections and subsections as an alternative. Cross references are made where provisions are comparable.

1/ Article 1 of the proposal of Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen (22) makes the right of innocent passage subject to the provisions of articles 2 to 23 of that proposal.

Article 15 of the proposal of Uruguay makes the right of innocent passage subject to the provisions of articles that are not specified.

Article 3 of the proposal of Argentina makes the right of innocent passage subject to a "definition of innocent passage" and to provisions (not submitted) setting forth a "precise determination of the regulatory powers of the coastal State".

2/ Article 3 of the proposal of Colombia, Mexico and Venezuela refers to "the provisions of these articles" without further specification. Section III of this proposal is entitled "Right of Innocent Passage", but no articles under that Section have been submitted.

(29) Uruguay (46) Argentina

(36) Ecuador, Panama, Peru

/vessels of any flag/

(43) China

[foreign non-military ships]

(10) Santo Domingo Declaration

3. [shall enjoy the right of innocent passage]

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

(25) Colombia, Mexico, Venezuela

(29) Uruguay; (43) China; (46)
Argentina

(36) Ecuador, Panama, Peru

[may sail freely]

(10) Santo Domingo Declaration;

4. [through the territorial sea.]

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

(25) Colombia, Mexico, Venezuela

(46) Argentina

(43) China

[through territorial seas.]

(25) Colombia, Mexico, Venezuela

[in the sea under the sovereignty and jurisdiction of the coastal State.]

(29) Uruguay

/on territorial seas whose breadth does not exceed 12 nautical miles
measured from the applicable baselines, / and /within the belt of the
first 12 nautical miles of territorial sea whose breadth exceeds
12 nautical miles measured from the applicable baselines./

(36) Ecuador, Panama, Peru

5. /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 prospective exploration, conservation and exploitation of resources, the preservation of the marine environment, scientific research, the emplacement of installations and safeguards for navigation and shipping. In so far as they are relevant, the provisions of the preceding paragraph shall also apply to aircraft. 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./

Article 1 (2)

(29) Uruguay

/Beyond the first 12 nautical miles of territorial seas whose breadth exceeds 12 nautical miles measured from the applicable baselines, ships and aircraft of all States, whether coastal or not, shall enjoy the right of free navigation on 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./

Article 2 (1)

- | | |
|--|--|
| <p>(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen (51) Fiji</p> | <p>1. [Passage means navigation through the territorial sea for the purpose of either traversing that sea without entering] (See also article 20 of the proposal of Malta (37).)</p> |
| <p>(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen</p> | <p>2. [internal waters,]</p> |
| <p>(51) Fiji</p> | <p>[any port in the coastal State,]</p> |
| <p>(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen (51) Fiji</p> | <p>3. or of proceeding to</p> |
| <p>(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen</p> | <p>4. [internal waters]</p> |
| <p>(51) Fiji</p> | <p>[any port in the coastal State from the high seas].</p> |
| <p>(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen (51) Fiji</p> | <p>5. or of making for the high seas from</p> |
| <p>(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen</p> | <p>6. [internal waters]</p> |
| <p>(51) Fiji</p> | <p>[any port in the coastal State]</p> |

Article 2 (2)

(22) Cyprus, Greece, Indonesia,
Malaysia, Morocco, Philippines,
Spain and Yemen (51) Fiji

(51) Fiji

1. /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;/
2. /otherwise passage shall be continuous and expeditious./
(See also article 20.3 of the proposal of Malta (37).)/

Article 2 (3)

(51) Fiji

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

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (43) China;
(51) Fiji

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (43) China;
(51) Fiji

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

(51) Fiji

(51) Fiji

(51) Fiji

(51) Fiji

(51) Fiji

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

(51) Fiji

1. [Passage is innocent so long as it is not prejudicial
to the peace, good order or security of the coastal State.]

2. [Such passage shall take place in conformity with these
articles, and with other rules of international law.]

3. [In exercising the right of innocent passage through the
territorial sea, foreign ships will not be allowed to
perform activities such as]

[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:]

4. [(a) any warlike act against the coastal or any other State;]

5. [(b) any exercise or practice with offensive weapons of
any kind;]

6. [(c) the launching or taking aboard of any aircraft;]

7. [(d) the launching, landing or taking aboard of any warlike
device;]

8. [(e) embarking or disembarking troops, crew members,
frogmen or any other person or device without the
authorization of the coastal State;]

[(e) The embarking or disembarking of any person;]

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

(51) Fiji

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

(51) Fiji

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

(51) Fiji

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

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

(51) Fiji

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

(51) Fiji

(51) Fiji

9. [(f) engaging in any act of espionage or collecting of information affecting the security of the coastal State;]

[(f) any act of espionage affecting the defence or security of the coastal State;]

10. [(g) engaging in any act of propaganda against the coastal State.]

[(g) any act of propaganda affecting the security of the coastal State;]

11. [(h) engaging in any act of interference with the systems of communications of the coastal State;]

[(h) any act of interference with any systems of communications of the coastal State;]

12. [(i) engaging in illicit trade;]

13. [(j) destroying or damaging submarine or aerial cables, tubes, pipelines or all forms of installations and constructions;]

[(j) any act of interference with any other facility or installation of the coastal State;]

14. [(k) exploring or exploiting marine and subsoil resources without the authorization of the coastal State;]

15. [(l) any other activity having a direct bearing on passage.]

16. [The provisions of paragraph 3 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.]

Article 3 (2)

- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 1. /Passage shall be continuous and expeditious./ (See article 32 (b) of the proposal of Malta (37).)
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 2. /Passing ships shall refrain from manoeuvring unnecessarily; hovering, or engaging in any activity other than mere passing./
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 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./
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 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./
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 5. /Submarine and other underwater vehicles are required to navigate on the surface and to show their flag./

Article 4

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

1. [The coastal State shall not hamper the innocent
passage]

(51) Fiji

2. [of foreign ships]

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

3. [through the territorial sea. In particular, it
shall not]

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

4. [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 State.]

(51) Fiji

[, 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.]

(51) Fiji

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.]

Article 5 (1)

- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji 1. /The coastal State may/
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji 2. /take the necessary steps in its territorial sea to prevent passage which is not innocent/ (See also article 32 (d) of the proposal of Malta (37).)

Article 5 (2)

- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji 1. /In the case of ships proceeding to/
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 2. /internal waters/
- (51) Fiji /any port in the coastal State/
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji 3. /the coastal State shall also have the right to/
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji 4. /take the necessary steps to prevent any breach of the conditions to which admission of those ships (vessels) to/
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 5. /those waters/
- (51) Fiji /such port/
- (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji 6. /is subject./ (See also article 32 (c) of the proposal of Malta (37).)

Article 6 (1)

- | | |
|--|--|
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji | 1. <u>/Subject to the provisions of .../</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(37) Malta; (51) Fiji | 2. <u>/The coastal State may/</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji | 3. <u>/without discrimination amongst foreign ships/</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(37) Malta; (51) Fiji | 4. <u>/suspend temporarily/</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen | 5. <u>/and/</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(37) Malta; (51) Fiji | 6. <u>/in specified areas/</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji | 7. <u>/of the (its) territorial sea/</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(51) Fiji | 8. <u>/the innocent passage of foreign ships/</u> |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen;
(37) Malta; (51) Fiji | 9. <u>/if such suspension is essential for the protection of its security./</u> (See also article 32 (e) of the proposal of Malta (37).) |

Article 6 (2)

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

1. [Such suspension shall take effect only after having
been]

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

2. [duly published.]

(51) Fiji

[given due publicity.]

Article 6 (3)

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

1. [Subject to the provisions of,]1/

(51) Fiji

[Except to the extent authorized under the provisions
of,]2/

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

2. [there shall be no suspension of the innocent passage of
foreign ships through straits used for international
navigation]

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

3. [which form part of the territorial sea.]

(51) Fiji

[or through sea lanes designated under the provisions
of,]2/

1/ This refers to articles 8, 22 (3) and 23 of the proposal of Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen.

2/ i.e. the provisions of the articles set forth in the proposal by Fiji.

OR

(B) alternatives to articles 1 to 6 (3) above

Article 1

(37) Malta

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./ 1/

Article 2

(37) Malta

/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./ 2/

Article 3

(37) Malta

/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./

1/ See article 14 (1), (2) and (3), 1958 Territorial Sea Convention.

2/ See article 15 (1), 1958 Territorial Sea Convention.

Sub-section B. Regulation of passage

(A)

Article 7 (1)

- | | |
|--|--|
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (43) China; (51) Fiji | 1. [The coastal State may] |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen | 2. [enact regulations] |
| (43) China | [enact necessary laws and regulations] |
| (51) Fiji | [make laws and regulations, in conformity with the
provisions of these articles or other rules of
international law] |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen | 3. [relating to navigation in its territorial sea.] |
| (43) China | [for the purpose of regulation of its territorial
sea.] |
| (51) Fiji | [relating to passage through the territorial sea.] |

Article 7 (2)

- | | |
|---|--|
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen | 1. [Such regulations may relate, <u>inter alia</u> , to the
following:] |
| (51) Fiji | Such [laws and regulations may be in respect of all
or any of the following:] |
| (22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen | 2. [(a) maritime safety and traffic and, in particular,
the establishment of sealanes and traffic
separation schemes;] |
| (51) Fiji | [(a) the safety of navigation and the regulation of
maritime traffic;] |

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

(51) Fiji

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

(51) Fiji

(51) Fiji

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

(51) Fiji

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

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen; (51) Fiji

(51) Fiji

3. [(b) Installation and utilization of facilities and systems of aids of navigation and the protection thereof;]

[(b) the utilization of, and the prevention of destruction or damage to, facilities and systems of aids to navigation;]

4. [(c) Installation and utilization of facilities to explore and exploit marine resources and the protection thereof;]

[(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;]

5. [(d) the prevention of destruction or damage to submarine or aerial cables and pipelines;]

6. [(e) Preservation of marine and coastal environment and prevention of all forms of pollution;]

[(e) the preservation of the environment of the coastal State, and the prevention of pollution thereto;]

7. [(f) maritime transport;]

8. [(g) research of the marine environment;]

9. [(h) prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary regulations of the coastal State;]

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

10. [(i) passage of ships with special characteristics.]

Article 7 (3)

(43) China

1. [A coastal State shall give publicity]

(51) Fiji

[The coastal State shall give due publicity]

(43) China

2. [to laws and regulations made for the purpose of
regulation of its territorial sea.]

(51) Fiji

[to all laws and regulations made under the
provisions of this article.]

Article 7 (4)

(43) China

1. [Ships and aircraft of a foreign State passing through
the territorial sea and the airspace thereabove of
another State]

(51) Fiji

[Foreign ships exercising the right of innocent passage
through the territorial sea]

(43) China; (51) Fiji

2. [shall comply with all such laws and regulations]

(43) China

3. [of the latter State.]

(51) Fiji

[of the coastal State.]

Article 8

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 1. /The coastal State may/

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain, Yemen 2. /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./ (See also article 32 (a) of the proposal of Malta (37).)

Article 9 (1)

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

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

Article 9 (2)

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

/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

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

/The coastal State may require any foreign ship that does not comply with the provisions concerning regulation of passage to leave its territorial sea./ (See also article 24 of the proposal of Malta (37).)

OR

(B) alternative to articles 7 (1) to 10 above

Article 1

(37) Malta

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./ 1/
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./ 2/

Article 2

(37) Malta

/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./

1/ See for analogy, article 17 and article 24 (1), 1958 Territorial Sea Convention.

2/ See for analogy, article 14 (5), 1958 Territorial Sea Convention.

Article 3

(37) Malta

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 4

(37) Malta

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./ 1/

1/ See article 15 (2), 1958 Territorial Sea Convention.

(37) Malta (continued)

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./ 1/
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 5

(37) Malta

/In a belt of ocean space adjacent to its coast, not exceeding 12 nautical miles in breadth measured from the applicable baseline, the coastal State in addition to the measures contemplated in the foregoing articles, 2/ 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;
- (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;

1/ See for analogy, article 12 (2), 1958 High Seas Convention.

2/ This refers to articles 20 to 31 of the proposal of Malta; these provisions are reproduced in the relevant sections and sub-sections.

(e) Subject to the provisions ... 1/ 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 ... 1/ establish precisely delimited zones closed to foreign warships for reasons of national security.

1/ This refers to articles 36 and 37 of the proposal of Malta (37): they read as follows:

"Article 36

"1. There shall be no suspension of passage through straits more than 24 nautical miles wide which are, or can be, used for international navigation.

"2. Subject to the provisions of articles 21, 22 and 23, the coastal State must not hamper passage through straits more than 24 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 24 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 submersibles or of foreign warships. In addition the coastal State may:

(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 subparagraphs (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."

(37) Malta (continued)

(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.⁷ 1/

Article 6

(37) Malta

1. /Measures taken by the coastal State under subparagraphs (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.⁷
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.⁷

^{1/} See article 16 (1), (2), (3), 1958 Territorial Sea Convention.

Section II. Rules applicable to certain types of ships

Sub-section A. Merchant ships

Article 11 (1)

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

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

Article 11 (2)

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

1. [Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services]

(51) Fiji

2. [rendered to the ship.]

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

3. [These charges shall be levied without discrimination.]

Article 11 (3)

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

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

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

[The criminal jurisdiction of the coastal State
[should] [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.]

Article 12 (2)

(22) Cyprus, Greece, Indonesia, Malaysia, Morocco,
Philippines, Spain, Yemen; (51) Fiji

- 1. [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]

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

(51) Fiji

- 2. [internal waters.]
[any port in the coastal State.]

Article 12 (3)

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain,
Yemen; (51) Fiji

1. /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/

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

2. /the country whose flag the ship flies,/

(51) Fiji

/the flag State/

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen;
(51) Fiji

3. /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./

Article 12 (4)

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen;
(51) Fiji

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

Article 12 (5)

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen;
(51) Fiji

1. /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/

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

2. /internal waters./

(51) Fiji

/any port in the coastal State./

Article 13 (1)

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen; (51) Fiji

[The coastal State [should] [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.]

Article 13 (2)

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen; (51) Fiji

1. [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]

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

2. [its voyage]

(51) Fiji

[its passage]

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen; (51) Fiji

3. [through the waters of the coastal State.]

Article 13 (3)

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen; (51) Fiji

1. [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 proceeding [s], a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving]

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

2. [internal waters.]

(51) Fiji

[any port in the coastal State.]

OR

(B) Alternative to articles 11 (1) to 13 (3)

Article 1

(37) Malta

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./ 1/
3. /Disputes on the reasonableness or otherwise of the charges mentioned in the foregoing paragraph shall be adjudicated by the International Maritime Court./

Article 2

(37) Malta

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

1/ See Article 18, 1958 Territorial Sea Convention.

(37) Malta (continued)

(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.7

2. 7The 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.7

3. 7In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.7 1/

4. 7In 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.7 2/

5. 7In 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.7

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

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

(37) Malta (continued)

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./

Article 3

(37) Malta

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./ 1/

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 or of the State whose flag the vessel was flying./

Article 4

(37) Malta

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

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

(37) Malta (continued)

for the purpose of its voyage through the waters of the coastal State.⁷

3. ⁷The 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.⁷ ¹/

¹/ Article 20, 1958 Territorial Sea Convention.

Subsection B. Ships with special characteristics

Article 14

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

/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

(51) Fiji

/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 searoutes as may be designated for that purpose by the coastal State./

Article 16 (1)

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

/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./

(51) Fiji

/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 searoutes as may be designated for that purpose by the coastal State./

Article 16 (2)

[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.]

Article 16 (3)

[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.]

Article 16 (4)

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

Article 17

[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.]

[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 searoutes as may be designated for that purpose by the coastal State.]

(51) Fiji

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

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

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

(51) Fiji

Article 18

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

/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./

(51) Fiji

/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./

Article 19 (1)

(51) Fiji

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

Article 19 (2)

(51) Fiji

/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 subsection./

Article 19 (3)

(51) Fiji

/In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this subsection 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./

Article 19 (4)

(51) Fiji

/The coastal State shall clearly demarcate all sealanes designated by it under the provisions of this subsection and indicate them on charts to which due publicity shall be given./

Article 20

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

/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./

(51) Fiji

/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./

Subsection C. Government ships other than warships

(A)

Article 21

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen;
(51) Fiji

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

Article 22 (1)

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

1. [The rules contained in articles 11, 16(1),
16(3) (a) and (c), 17 and 20 of sub-section B]

(51) Fiji

[The rules contained in Section I and in
sub-section B of Section II]

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen; (51) Fiji

2. [shall apply to government ships operated for
non-commercial purposes.]

Article 22 (2)

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

1. [With such exceptions as are contained in any of
the provisions referred to in paragraph 1 of this
article]

(51) Fiji

[With such exceptions as are contained in
paragraph 1 of this article or in article 25 of
these articles]

(22) Cyprus, Greece, Indonesia, Malaysia,
Morocco, Philippines, Spain, Yemen; (51) Fiji

2. [Nothing in these articles affects the immunities
which such ships enjoy under (the provisions of)
these articles or other rules of international
law.]

OR

(B) Alternative to articles 21 to 22 (2) above

Article 1

(37) Malta

1. /The rules contained in the foregoing articles shall also apply to government vessels operated for commercial purposes./ 1/
2. /The rules contained in the foregoing articles shall also apply to government vessels operated for non-commercial purposes./ 1/
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./ 2/

1/ The words "foregoing articles" refer to articles 20 to 27 of the proposal of Malta (37); these articles are reproduced in section I and section II, subsection A above as alternative articles.

2/ See Articles 21 and 22, 1958 Territorial Sea Convention.

Subsection D. Warships

Article 23 (1)

(51) Fiji

/For the purpose 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./

Article 23 (2)

(51) Fiji

/The rules contained in Section I shall apply to warships./

Article 23 (3)

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

/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./

(43) China

/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./

Article 23 (4)

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

/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; they 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./

(37) Malta

[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.]

(51) Fiji

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

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

Article 23 (5)

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

[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.]

(37) Malta

[Subject to the provisions of ...^{1/}, the coastal State may establish precisely delimited zones closed to foreign warships for reasons of national security.]

Article 23 (6)

(37) Malta

[The coastal State may 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.]

^{1/} i.e. subject to the provisions of Articles 36 and 37 of the Malta proposal relating to passage through straits used for international navigation.

Article 23 (7)

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

/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./

(51) Fiji

/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 4 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./

(37) Malta

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

Article 23 (8)

(51) Fiji

/With such exceptions as are contained in this article and article 25 nothing in these articles affects the immunities which warships enjoy under the provisions of these articles or other rules of international law./

Article 24

(37) Malta

/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./ 1/

1/ Article 42 of the Malta proposal (37) reads as follows:

"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.

"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."

Sub-section E. Liability of government ships

Article 25

(51) Fiji

[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.]

2.4 Innocent passage in the territorial sea (continued)

Subsection F. Overflight

Article 26 (1)

(37) Malta

/In a belt of ocean space adjacent to its coast not exceeding 12 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;

(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.7

Article 26 (2)

(37) Malta

/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 30 days unless the consent of the institutions to such measures is obtained.7

Article 27 (1)

(37) Malta

/Foreign military aircraft exercising the right of overflight over a belt of national ocean space not exceeding 12 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./

Article 27 (2)

(37) Malta

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

Article 28 (1)

(37) Malta

/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 air space closed to foreign military aircraft for reasons of national security. Such zones shall be established with due regard to the normal exercise of the 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./

Article 28 (2)

(37) Malta

/Subject to the provisions contained in article 26 (2), nothing in the foregoing paragraph shall affect the exercise of the right of overflight over straits which area can be used for international navigation./

4. STRAITS USED FOR INTERNATIONAL NAVIGATION*

4.1 Innocent passage

Note:

(i) The draft articles on navigation through the territorial sea including straits used for international navigation, submitted by Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen (22), have been reproduced in the consolidated text under item 2.4 (innocent passage in the territorial sea). The draft articles apply also to straits used for international navigation which, under these articles, are, or form part of, territorial seas.

(ii) Paragraph 3 of Part A of the Organization of African Unity Declaration on the issues of the Law of the Sea (28), states 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".

Article 1

(39) Italy

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.]

* See also 2.4. (Innocent passage in the territorial sea) and 16 (Archipelagos).
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4.2 Other related matters including the
question of the right of transit

(A)

Article 1 (1)

- | | |
|-------------------------------|---|
| (4) USA; (9) USSR; (39) Italy | 1. <u>/In straits/</u> |
| (4) USA; (9) USSR | 2. <u>/used for international navigation/</u> |
| (9) USSR | 3. <u>/between one part of the high seas and another part of the high seas/</u> |
| (4) USA | <u>/between one part of the high seas and another part of the high seas</u>
<u>or the territorial sea of a foreign state/</u> |
| (39) Italy | <u>/connecting two parts of the high seas or connecting part of the high</u>
<u>seas with the territorial sea of a foreign state/ 1/</u> |
| (9) USSR | 4. <u>/all ships in transit/</u> |
| (4) USA | <u>/all ships and aircraft in transit/</u> |
| (39) Italy | <u>/all ships and all aircraft/</u> |
| (9) USSR | 5. <u>/shall enjoy the same freedom of navigation/</u> |
| (39) Italy; (4) USA | <u>/shall enjoy the same freedom of navigation and overflight/</u> |
| (9) USSR | 6. <u>/for the purpose of transit through such straits/</u> |
| (39) Italy; (4) USA | <u>/for the purpose of transit through and over such straits/</u> |
| (4) USA; (9) USSR | 7. <u>/as they have on the high seas/</u> |
| (39) Italy | <u>/as exists on the high seas/</u> |

1/ This proposal of Italy contained in (39), paragraph (A) of the draft articles on Straits, is subject to the provisions of paragraph (B) of that proposal, which read as follows: "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."

Article 1 (2)

- (4) USA 1. [Coastal States may designate corridors suitable for transit by all ships and aircraft through and over such straits]
- (9) USSR [Coastal States may, in the case of narrow straits, designate corridors suitable for transit by all ships through such straits]
- (39) Italy [The coastal States may designate appropriate channels and corridors to be used by transit traffic passing through and over the straits.]
- (4) USA; (9) USSR 2. [In the case of straits where particular channels of navigation are customarily employed by ships in transit,]
- (4) USA 3. [the corridors, so far as ships are concerned, shall include such channels.]
- (9) USSR [the corridors shall include such channels.]

Article 2

(9) USSR

[The freedom of navigation provided for in article 1 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;]

(39) Italy

[The freedom of transit shall be so exercised as to avoid all (unnecessary) obstruction of traffic] (See also (37) Malta, Articles 37.2(a) and 41)

(9) USSR

[(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;] (See also (37) Malta, Article 41)

[(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;] (See also (37) Malta, Article 41)

[(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.] (See also (37) Malta, Articles 36 and 37)

3. The provisions of this article:

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

(b) shall not affect the sovereign rights of the coastal States with respect to the surface, the sea-bed and the living and mineral resources of the straits;

(c) shall not affect the legal régime of straits through which transit is regulated by international agreements specifically relating to such straits.7

(4) USA

The provisions of this article shall not affect conventions or other international agreements already in force specifically relating to particular straits.7

Article 3

(9) USSR

[1. In the case of straits over which the airspace is used for flights by foreign aircraft between one part of the high seas and another part of the high seas, all aircraft shall enjoy the same freedom of overflight over such straits as they have in the airspace over the high seas. Coastal States may designate special air corridors suitable for overflight by aircraft, and special altitudes for aircraft flying in different directions, and may establish particulars for radio-communication with them.

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

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

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

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

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

3. The provisions of this article:

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

(b) shall not affect the legal régime of straits over which overflight is regulated by international agreements specifically relating to such straits.7

Article 1

- (37) Malta [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.]
- [2. Subject to the provisions of articles 21, 22 and 23^{1/}, the coastal State must not hamper passage through straits more than twenty-four miles wide which are, or can be, used for international navigation.]

(See also (9) USSR, Article 1.2(e))

1/ Note: Articles 21, 22 and 23 of the Malta proposal, the text of which is as follows:

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.

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.

"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."

Article 2

(37) Malta

/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 3.7
(See also (9) USSR, Article 1.2 (e))

/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:7

/7(a) require compliance with compulsory traffic separation schemes; with designated safe sea-lanes and, when necessary, with safe draft limits;7
(See also (9) USSR, Article 1.2 (b))

/7(b) require that passage be continuous and expeditious;7

/7(c) require, when passage is hazardous, the use by transiting vessels of pilots designated by the coastal State;7

/7(d) require three days prior notification of the passage of foreign submersibles or of foreign warships. In addition the coastal State may:

- (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.7

/3. Measures taken by the coastal State under subparagraphs (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.7

Article 3

4.2
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(37) Malta

[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 4

[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.

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 5

[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.7

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.7

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.7

Article 6

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.7
(See also (9) USSR, Article 1.2 (b) and (c).)

2. Liability for damages negligently caused by a vessel exercising the right of passage shall rest with the State whose flag the vessel flies.7
(See also (9) USSR, Article 1.2 (d).)

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.7

Article 7

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 (1) 1/ of this convention;

(b) comply with such regulations as may be adopted by the coastal State under article 2;

(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.]

[2. Foreign warships passing through straits less than 24 nautical miles wide shall be exempt from any charges which may be levied under article 5 (2).]

1/ Article 34 of the Malta proposal reads as follows:

"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."

5. CONTINENTAL SHELF

5.1

5.2

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

5.2 Outer limit of the continental shelf: applicable criteria

Article 1 (1)

- | | |
|-----------------------------------|---|
| (10) Santo Domingo Declaration | 1. [The continental shelf includes] |
| (25) Colombia, Mexico, Venezuela | [The term "continental shelf" means:] |
| (46) Argentina | [The continental shelf comprises] |
| (10) Santo Domingo Declaration; | 2. [the sea-bed and subsoil of the submarine areas |
| (25) Colombia, Mexico, Venezuela; | adjacent to the coast, but outside the area of |
| (42) Tunisia, Turkey | the territorial sea] |
| (46) Argentina | [the bed and subsoil of the submarine areas adjacent |
| | to the territory of the State but outside the area |
| | of the territorial sea] |
| (10) Santo Domingo Declaration | 3. [to a depth of 200 metres or, beyond that limit, to |
| | where the depth of the superjacent waters admits of the |
| (25) Colombia, Mexico, Venezuela | exploitation of the natural resources of the said areas.] |
| | [to the outer limits of the continental rise bordering |
| (35) USSR | on the ocean basin or abyssal floor.] |
| | [the outer limit of which may be established by the coastal |
| | State within the 500-metre isobath; 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.] |
| (46) Argentina | [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.] |

- 5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf)
5.2 Outer limit of the continental shelf: applicable criteria) (continued)

OR

Article 1

(43) China

/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./

Article 2

(25) Colombia, Mexico, Venezuela

1. The term "continental shelf" is also used as referring
2. to /the sea-bed and subsoil of analogous submarine regions adjacent to the coast of islands/ 1/

OR

Article 2

(38) Greece

/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./

1/ A proposal by Tunisia and Turkey (42) sets forth an amendment deleting this paragraph taken from the draft articles proposed by Colombia, Mexico and Venezuela (25).

5.1	<u>Nature and scope of the sovereign rights of coastal States over the continental shelf</u>	5.1
5.2	<u>Outer limit of the continental shelf: applicable criteria</u>	5.2
		(continued) page 90

Article 3

- (35) USSR /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 article 1 (1).1/

Article 4 (1)

- (10) Santo Domingo Declaration;
(25) Colombia, Mexico, Venezuela /In that part of the continental shelf covered by the patrimonial sea the legal régime provided for the patrimonial sea (economic zone) shall apply.1/

Article 4 (2)

- (10) Santo Domingo Declaration;
(25) Colombia, Mexico, Venezuela /With respect to the part beyond the patrimonial sea the régime established by international law for the continental shelf shall apply.1/
- (45) Australia, Norway /The coastal State has the right to retain, where 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.1/

Article 5

- (46) Argentina /The sovereignty of a coastal State extends to its continental shelf.1/

Article 6

- (46) Argentina /The rights of the coastal State over the continental shelf do not depend on occupation, effective or national, or on any declaration.1/

1/ For the outer limit of the continental shelf, as proposed by the USSR, see: Tentative comparative table of proposals, declarations, working papers, etc. relating to subjects and issues allocated to Sub-Committee II under 5.2 (35).

5.3 Question of the delimitation between States; various aspects involved

Article 7 (1)

(33) Turkey

/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./

OR

(43) China

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

Article 7 (2)

(33) Turkey

1. /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./

2. /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./

3. /In the absence of special circumstances, due regard should be given to the principles of median line or equidistance in delimitation of respective boundaries./

5.4 Natural resources of the continental shelf

Article 8 (1)

(10) Santo Domingo Declaration;
(25) Colombia, Mexico, Venezuela

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

(43) China

/The natural resources of the continental shelf ... appertain to the coastal State./

(46) Argentina

/A coastal State has sovereignty over the renewable and non-renewable natural resources of its continental shelf./

Article 8 (2)

The natural resources include:

(43) China

/the mineral resources of the sea-bed and subsoil and the living resources of sedentary species./

(46) Argentina

/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./

Article 9

(43) China

/A coastal State may enact all necessary laws and regulations for the effective management of its continental shelf./

OR

5.4 Natural resources of the continental shelf (continued)

(46) Argentina

(Article 9 (1)

(/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./

(46) Argentina

(Article 9 (2)

(/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./

(46) Argentina

(Article 9 (3)

(It is 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.

Article 10

(43) China

/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./

5.5 Régime for waters superjacent to the continental shelf

Article 11

(43) China

/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./

(46) Argentina

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

Article 12

(43) China

/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./

(46) Argentina

/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./

5.6 Scientific research

(37) Malta

See chapter IX, articles 63 to 75 of the proposal of Malta (37). This chapter refers to scientific research in "national ocean space" and should be read in conjunction with the Malta draft articles on scientific research contained in document A/AC.138/SC.III/L.34.

Article 13

(46) Argentina

/It is 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.7

Note: The following articles also relate to item 18 (Artificial islands and installations):

Article ... (1)

(43) China

[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.]

(46) Argentina

[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.]

Article ... (2)

(46) Argentina

[The establishment of any other type of installation by third States or their nationals is subject to the permission of the coastal State.]

Article ... (1)

(46) Argentina

[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 installation or devices.]

Article ... (2)

[The construction of any installation or device shall be officially made public and permanent means for giving warning of its presence shall be maintained. Any installation which is disused shall be removed by the coastal State.]

8. HIGH SEAS

8.4 Management and conservation of living resources

Article 10

- (15) Japan [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.]

Article 11 (1)

- (11) Canada; (15) Japan 1. [A coastal State]
(11) Canada 2. [has a special interest in and responsibility for]
(15) Japan [shall be recognized as having special status with respect to]
(11) Canada 3. [the conservation of the living resources of the sea adjacent to its coast.]
(15) Japan [the conservation of fishery resources in its adjacent waters.]

Article 11 (2)

- (11) Canada [A coastal State shall have the authority required to manage those resources in a manner consistent with its special interest and responsibility.]

Article 12 (1)

- (15) Japan [A 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.]

Article 12 (2)

- (15) Japan [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.]

8.4 Management and conservation of living resources (continued)

Article 13

- (15) Japan [Except for interim measures, no conservation measures 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).] 1/

Article 14

- (15) Japan [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.]

OR:

- | | | |
|-----------------------------------|----|---|
| (25) Colombia, Mexico, Venezuela; | 1. | [The coastal State has a special interest in maintaining the productivity of] |
| (36) Ecuador, Panama, Peru; | | |
| (47) Canada, India, Kenya, | | |
| Madagascar, Senegal, Sri Lanka | | |
| (25) Colombia, Mexico, Venezuela; | 2. | [the living resources] |
| (47) Canada, India, Kenya, | | |
| Madagascar, Senegal, Sri Lanka | | |
| (36) Ecuador, Panama, Peru | | [renewable resources] |
| (25) Colombia, Mexico, Venezuela | 3. | [on the sea in an area adjacent to the patrimonial sea.] |
| (36) Ecuador, Panama, Peru | | [in any part of the international sea adjacent to the area subject to its sovereignty and jurisdiction] |
| (47) Canada, India, Kenya, | | [of the area of the sea adjacent to the exclusive fishery zone.] |
| Madagascar, Senegal, Sri Lanka | | |
| (47) Canada, India, Kenya, | 4. | [and may take appropriate measures to protect this interest.] |
| Madagascar, Senegal, Sri Lanka | | |

1/ Note by the Secretariat: The "interim measures" referred to in this article are the interim measures set forth in paragraph 6.1 of the proposal by Japan (15).

8.4 Management and conservation of living resources (continued)

Article 15

(15) Japan

[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 appropriate conservation measures. These conservation measures shall be adopted having regard to the principles referred to in]1/

Article 16

(15) Japan

[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.]

Article 17

(15) Japan

[States shall make use of the international or regional fishery organizations, as far as possible, to adopt appropriate conservation measures.]

1/ Note: "... the principles referred to in", i.e. the principles referred to in paragraph 2.3 of the proposal by Japan (15). These principles are contained in articles 17-22.

8.4 Management and conservation of living resources (continued)

Article 18 (1)

- (12) USA [In order to assure the conservation of living marine resources, the coastal State or appropriate international organizations shall apply the following principles:]
- (12) USA A. 1. [Allowable catch and other conservation measures]
- (15) Japan [Conservation measures]
- (12) USA 2. [shall be established]
- (15) Japan [must be adopted]
- (12) USA 3. [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.]
- (15) Japan [on the basis of the best scientific evidence available.]
- (12) USA B. [For this purpose scientific information, catch and effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.]
- (12) USA C. [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.]

Article 18 (2)

- (12) USA 1. [No conservation measures and their implementation]
- (15) Japan [No conservation measures]
- (12) USA; (15) Japan 2. [shall discriminate in form or fact]
- (12) USA 3. [against any fishermen]
- (15) Japan [between fishermen of one State from those of other States.]

8.4 Management and conservation of living resources (continued)

Article 19

(15) Japan

[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.]

Article 20

(15) Japan

[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.]

Article 21

(15) Japan

[No State can be exempted from the obligation to adopt conservation measures on the ground that sufficient scientific findings are lacking.]

Article 22

(15) Japan

[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.]

Article 23

(15) Japan

[Conservation measures and the data on the basis of which such measures are adopted shall be subject to review at appropriate intervals.]

8.4 Management and conservation of living resources (continued)Article 24

(11) Canada

[The following principles shall be applicable to the management of the living resources of the sea: 1/

- (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.

1/ Note: The Working Paper on Management of the Living Resources of the Sea, submitted by Canada, states (in Part IV on "Basic Principles for Coastal State Management") that these principles are elaborated "with particular reference to the management of coastal species by the coastal State, whose authority and preferential rights would be governed by these principles, as would also the participation of other States in particular fisheries under management by the coastal State.

- (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.
- (9) The quality of ocean waters must be maintained.]

Article 25

(11) Canada

[To maintain the productivity of the resource and the value of its yield, the following scientific principles shall be observed:

- (1) Stocks shall be managed as individual units.
- (2) Exploitation of unit shall be controlled so that production of new age group or "recruits" is at a maximum.
- (3) Each age group of a species as it becomes available to fishing, shall be fished at the point when its contribution to catches can be greatest.]

Article 26 (1)

(36) Ecuador, Panama, Peru

[Fishing and hunting in the international seas shall be subject to regulations of a world-wide and regional nature.]

Article 26 (2)

(36) Ecuador, Panama, Peru

[These activities shall be carried out by techniques and methods which do not jeopardize adequate conservation of the renewable resources of the international seas.]

Article 27 (1)

(10) Santo Domingo Declaration

[Fishing (beyond the outerlimits of the patrimonial sea) shall be neither unrestricted nor indiscriminate and shall be the subject of adequate international regulation, preferably of world-wide scope and general acceptance.]

OR:

(55) China

[Fishing in the international area shall be properly regulated to prohibit indiscriminate fishing and other violations of rules and regulations for the conservation of fishery resources.]

Article 27 (2)

(55) China

[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.]

Article 28 (1)

(Highly migratory oceanic resources)

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

[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.]

OR:

(12) USA

[The highly migratory oceanic resources listed in shall be regulated by appropriate international fishery organizations.] 1/

1/ Note: Part III of the USA proposal refers to the highly migratory oceanic resources listed in Annex A. The text of Annex A may be found in document A/AC.138/SC.II/L.9

- A. [Any coastal State party, or other State party whose flag vessels harvests or intend to harvest a regulated resource, shall have an equal right to participate in such organizations.] 1/
- 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.]

OR:

(15) Japan

[The conservation and regulation of (highly migratory, including anadromous,) 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.]

Article 28 (2)

(28) OAU Declaration

[The African States recognize that fishing activities in the high seas have a direct effect on the fisheries within the territorial sea and in the economic zone. Consequently, such activities must be regulated especially having regard to the highly migratory and anadromous fish species. The African States therefore favour the setting up of an international sea fisheries régime or authority with sufficient powers to make States comply to widely accepted fisheries management principles or alternatively, the strengthening of the existing FAO Fisheries Commissions or other fisheries regulatory bodies to enable them to formulate appropriate regulations applicable in all the areas of the high seas.]

1/ Note: See also Moscow Declaration, document A/8721, para. 2, at page 79, according to which all interested States, without exception, should be given the opportunity to participate in such organizations, on the principle of sovereign equality.

16. ARCHIPELAGOS^{*/}

Article 1

- | | |
|---|--|
| (18) Fiji, Indonesia, Mauritius, Philippines | 1. [The extent of the territorial sea of an archipelagic State] |
| (28) OAU Declaration; (29) Uruguay | [The territorial sea of an archipelagic State] |
| (36) Ecuador, Panama, Peru | [The area of sovereignty and jurisdiction of an archipelagian State] |
| (18) Fiji, Indonesia, Mauritius, Philippines | 2. [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] |
| (29) Uruguay | [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] |
| (29) Uruguay; (36) Ecuador, Panama, Peru | 3. [may be measured] |
| (18) Fiji, Indonesia, Mauritius, Philippines;
(28) OAU Declaration | may be [determined] |
| (18) Fiji, Indonesia, Mauritius, Philippines | 4. [by drawing straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago] |
| (28) OAU Declaration | [by drawing baselines connecting the outermost points of the outermost islands of the archipelago] |
| (29) Uruguay | [from the straight baselines joining the furthest points of the islands and the outermost low-tide reefs of the archipelago] |
| (36) Ecuador, Panama, Peru | [from straight baselines joining the outermost points of the outer islands and reefs of the archipelago] |

^{*/} See also sections 2 (Territorial Sea) and 4 (Straits)

Article 2 (1)

- (18) Fiji, Indonesia, Mauritius, Philippines
(29) Uruguay; (36) Ecuador, Panama, Peru
- (18) Fiji, Indonesia, Mauritius, Philippines;
(29) Uruguay
- (18) Fiji, Indonesia, Mauritius, Philippines
- (18) Fiji, Indonesia, Mauritius, Philippines
- (29) Uruguay

1. /The waters within the baselines/
/Waters enclosed by the baselines drawn
in accordance with article 1/
2. /regardless of their depth or distance
from the coast/
3. /the sea-bed and the subsoil thereof, and
the superjacent air space, as well as all
their resources/
4. /belong to, and are subject to, the
sovereignty of the archipelagic State/
/shall be regarded as internal waters/

Article 2 (2)

- | | | |
|--|---|--|
| (18) Fiji, Indonesia, Mauritius, Philippines;
(29) Uruguay; implicitly (36) Ecuador, Panama, Peru | } | 1. [Innocent passage] |
| (18) Fiji, Indonesia, Mauritius, Philippines
(29) Uruguay
(29) Uruguay
(36) Ecuador, Panama, Peru | | 2. [of foreign vessels]
[of ships flying any flag]
[of vessels of any flag] |
| (18) Fiji, Indonesia, Mauritius, Philippines;
(36) Ecuador, Panama, Peru | | 3. [through the internal waters of the
archipelagic State] |
| (18) Fiji, Indonesia, Mauritius, Philippines
implicitly (29) Uruguay, and (36) Ecuador,
Panama, Peru | | 4. [shall be allowed] |
| (18) Fiji, Indonesia, Mauritius, Philippines

(36) Ecuador, Panama, Peru | | 5. [in accordance with its national legislation,
having regard to the existing rules of
international law]
[in accordance with the provisions laid down
by the archipelagic State] |

Article 2 (3)

- | | |
|--|---|
| (18) Fiji, Indonesia, Mauritius, Philippines | [Such passage shall be through sealanes as
may be designated for that purpose by the
archipelagic State.] |
|--|---|

OR

Article 1

(37) Malta

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 designation made by the archipelago State any Contracting Party may submit the matter to the International Maritime Court for binding jurisdiction.

OR

Article 1

(43) China

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.

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