



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

Volume III

GENERAL ASSEMBLY

OFFICIAL RECORDS: TWENTY-EIGHTH SESSION

SUPPLEMENT No. 21 (A/9021)

UNITED NATIONS

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New York, 1973

NOTE

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

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

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1

Union of Soviet Socialist Republics: draft article on
the breadth of the territorial sea*

Addendum

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

2

Archipelagic principles as proposed by the delegations
of Fiji, Indonesia, Mauritius and the Philippines**

Explanatory note

This paper is submitted by Fiji, Indonesia, Mauritius and the Philippines for consideration by this Committee with a view to the principles enunciated therein being incorporated into the convention on the law of the sea. These principles are designed to accommodate not only the interests of archipelagic States but also other States and of the international community as a whole. They contain the definition of an archipelagic State, its rights over the waters of the archipelago, and the right of innocent passage for international navigation through the waters of the archipelago.

PRINCIPLES

1. An archipelagic State, whose component islands and other natural features form an intrinsic geographical, economic and political entity, and historically have or may have been regarded as such, may draw straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago from which the extent of the territorial sea of the archipelagic State is or may be determined.

* Originally issued as document A/AC.138/SC.II/L.7/Add.1.

** Originally issued as document A/AC.138/SC.II/L.15.

1/ Reference is to the draft articles on straits used for international navigation submitted by the Union of Soviet Socialist Republics at the Committee's fourth session in July 1972 (A/AC.138/SC.II/L.7).

2. The waters within the baselines, regardless of their depth or distance from the coast, the sea-bed and the subsoil thereof, and the superjacent air space, as well as all their resources, belong to, and are subject to the sovereignty of the archipelagic State.

3. Innocent passage of foreign vessels through the waters of the archipelagic State shall be allowed in accordance with its national legislation, having regard to the existing rules of international law. Such passage shall be through sea lanes as may be designated for that purpose by the archipelagic State.

3

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*

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

2. In areas with special characteristics, such as the semi-enclosed and enclosed seas, where the extension by one State of the breadth of its territorial sea may prejudice the rights and interests of other States of the area, the determination of the breadth of the territorial sea shall be effected by the agreement of the States of that area.

4

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**

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

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

* Originally issued as document A/AC.138/SC.II/L.16.

** Originally issued as document A/AC.138/SC.II/L.16/Rev.1.

Greece: amendment to proposal No. 4*

In the draft article submitted by Turkey (proposal No. 4 above), the following new paragraph should be added after paragraph 2:

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

Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen: draft articles on navigation through the territorial sea including straits used for international navigation**

The question of navigation through the territorial sea, including straits used for international navigation, is one of the problems facing the Committee in its task to comply with the terms of General Assembly resolutions 2750 C (XXV) and 3029 A (XXVII).

The delegations sponsoring the present document wish to contribute to the progress of the Committee's work at this new and important stage of its proceedings and they consider that an appropriate means to achieve this aim is to submit draft articles on items 2.4 and 4.1 of the list of subjects and issues concerning navigation through the territorial sea and through straits used for international navigation, independently of the solutions that item 2.5 may receive in due course.

Although presented as separate articles, this draft is not intended to prejudice its eventual location within the convention or conventions which may be adopted by the future conference.

In drafting this document the following basic considerations have been taken into account:

(1) Navigation through the territorial sea and through straits used for international navigation should be dealt with as an entity, since the straits in question are or form part of territorial seas.

(2) Regulation of navigation should establish a satisfactory balance between the particular interests of coastal States and the general interests of international maritime navigation. This is best achieved through the principle of innocent passage which is the basis of the traditional régime for navigation through the territorial sea.

* Originally issued as document A/AC.138/SC.II/L.17.

** Originally issued as document A/AC.138/SC.II/L.18.

(3) The regulation should contribute both to the security of coastal States and to the safety of international maritime navigation. This can be achieved by the reasonable and adequate exercise by the coastal State of its right to regulate navigation through its territorial sea, since the purpose of the regulation is not to prevent or hamper passage but to facilitate it without causing any adverse effects to the coastal State.

(4) The regulation should take due account of the economic realities and scientific and technological developments which have occurred in recent years; this requires the adoption of appropriate rules to regulate navigation of certain ships with "special characteristics".

(5) The regulation should, finally, meet the deficiencies of the 1958 Geneva Convention, especially those concerning the passage of warships through the territorial sea, including straits.

SECTION I. RULES APPLICABLE TO ALL SHIPS

Subsection A. Right of innocent passage

Article 1

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

Article 2

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

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

Article 3

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

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

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

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

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

Article 4

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

Article 5

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

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

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

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

Subsection B. Regulation of passage

Article 6

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

(a) Maritime safety and traffic and, in particular, the establishment of sea lanes and traffic separation schemes;

(b) Installation and utilization of facilities and systems of aids to navigation and the protection thereof;

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

(d) Maritime transport;

- (e) Passage of ships with special characteristics;
- (f) Preservation of marine and coastal environment and prevention of all forms of pollution;
- (g) Research of the marine environment.

Article 7

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

- (a) engaging in any act of espionage or collecting of information affecting the security of the coastal State;
- (b) engaging in any act of propaganda against the coastal State or of interference with its systems of communications;
- (c) embarking or disembarking troops, crew members, frogmen or any other person or device without the authorization of the coastal State;
- (d) engaging in illicit trade;
- (e) destroying or damaging submarine or aerial cables, tubes, pipelines or all forms of installations and constructions;
- (f) exploring or exploiting marine and subsoil resources without the authorization of the coastal State.

Article 8

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

Article 9

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

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

Article 10

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

SECTION II. RULES APPLICABLE TO CERTAIN TYPES OF SHIPS

Subsection A. Merchant ships

Article 11

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

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

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

Article 12

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

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

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

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

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

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

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

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

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

Article 13

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

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

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

Subsection B. Ships with special characteristics

Article 14

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

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

Article 15

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

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

Article 16

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

- (a) Prior notification to its competent authorities;

(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 17

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

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

Article 18

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

Subsection C. Government ships other than warships

Article 19

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

Article 20

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

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

Subsection D. Warships

Article 21

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

Article 22

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

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

- (a) carrying out any exercise or practice with weapons of any kind;
- (b) assuming combat position by the crew;
- (c) flying their aircraft;
- (d) intimidation or displaying of force;
- (e) carrying out research operations of any kind.

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

Article 23

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

7

Cyprus: draft article under item 2.3.2,
Breadth of the territorial sea*

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

* Originally issued as document A/AC.138/SC.II/L.19.

Special considerations regarding the management of anadromous fishes and highly migratory oceanic fishes: working paper submitted by the United States of America*

The biological characteristics of fish species are critical in determining how they can most effectively be managed and economically exploited. The technical and economic characteristics of a fishery developed under the influence of the biological nature of the fish in turn are important determinants of the best system for managing the fishery for conservation purposes and for regulating it for economic objectives.

For example, relatively sedentary or localized fish populations, which for the most part inhabit comparatively shallow waters near coasts, can be exploited by small vessels of limited range based on the nearby coast and can be managed by the adjacent coastal State.

Some anadromous species, such as the salmon, have quite different biological characteristics which tend to determine different patterns of exploitation and different systems of conservation of the resources and regulation of the fisheries.

There are other valuable species which live out their lives in the open ocean, migrating long distances and associating themselves only temporarily, if at all, with coastal features. The classic example of this type of fishery resource is the tuna.

This working paper describes the special characteristics of anadromous and highly migratory fishes which, in the judgement of the United States, require that they be dealt with in special ways.

Part I. Special considerations regarding the management of anadromous fishes

The term "anadromous", derived from the Greek ana - "upward" - and dromein - "to run", retains in the fishery context its literal meaning: to run upward, or ascend from the sea. More completely, anadromous fishes are those which require a fresh-water environment for their spawning, egg incubation and, in most cases, the rearing of juveniles - and depend upon the marine environment for the majority of their growth and maturation. This group of unique aquatic resources includes not only the Pacific and Atlantic salmon, which produced a catch of some 400,000 metric tons in 1970, but also such widely distributed forms as the trout, shad, striped bass, smelt and sturgeon which together accounted for a commercial harvest of over 600,000 metric tons, spread over some 25 countries. One genus of the shad family, Hilsa, is especially important throughout southern and south-eastern Asia where it contributes significantly to the local catches from the Suez to the Yangtze River.

* Originally issued as document A/AC.138/SC.II/L.20.

All of these animals share a high degree of dependence upon the maintenance by their "host" State of a suitable environment for a key portion of their life history.

The Pacific salmon (genus Oncorhynchus) are prime examples of this group, for together they comprise the world's largest anadromous fishery resource; have a wide natural distribution; have been transplanted, with mixed results, into the Atlantic, Arctic and South Pacific Oceans, as well as land-locked lakes; and are highly desirable for both commercial and recreational use.

Distribution and life history

With regard to their natural distribution, one or more species of Pacific salmon spawn in the fresh water of the western United States from central California north, in the Province of British Columbia and the Yukon Territory of Canada, throughout the coastal areas of Alaska from its south-east tip into the Arctic Ocean and along the length of the Aleutian Island chain; along the Siberian Coast of the USSR; and in Japan and Korea.

Although members of the same genus, the six species of Pacific salmon exhibit quite different biological characteristics and life histories. For example, the pink salmon is short-lived (two years) and rarely exceeds three kilograms in weight. On the other hand, the chinook or king salmon often lives to an age of seven years and commonly attains a weight in excess of 20 kilograms (occasionally to over 40 kilograms).

Responsibilities of the host State

As diverse as these species are, they share both a wide-ranging marine existence and the unique and precise homing characteristics that cause them to return ~~not only~~ to the river system of their origin, but to the particular tributary of their birth.

This dependence upon the fresh-ter environment for the survival not only of individuals but stocks and indeed entire species poses survival hazards not faced by purely marine species: natural obstacles to their upstream spawning migration, such as landslides and log jams; man-made obstacles, such as hydroelectric and flood control dams; the diversion of water for irrigation or industrial use, which if it occurs during the period of downstream migration of the juvenile fish can lead millions of those "smolts" out of the main stream of the river into blind-end irrigation systems; thermal pollution, caused either by the use of river water for cooling industrial equipment or by the impoundment of river water behind dams, which tends to lower resistance to disease and favours populations of predators; silting of spawning gravel; oxygen deficits caused by sewage and other biodegradable wastes; etc.

All of these mortality factors can be overcome or prevented, but to do so involves a great deal of expense. This expense can take the form of direct outlays of money and manpower in the construction of fishways around natural or man-made obstructions, the physical clearing of landslides or log and brush jams and the construction and maintenance of fish hatcheries and artificial spawning channels for supplementing natural production when adverse conditions cannot be otherwise overcome.

Indirect expenses can be even more significant for they entail a purposeful decision to maintain the physical and chemical characteristics of the river necessary for continued salmon reproduction in the face of increasing demands for alternative uses of the rivers and watersheds. The decision to forgo other uses of freshwater in order to maintain salmon production is not an easy one in such areas as Siberia, western Canada, and Alaska where settlement and industrialization are in their early stages and local demands for using the river systems for commerce, for the generation of electric power, for waste disposal and for industrial purposes are not easy to overcome. Nevertheless, in many cases, these pressures have been resisted and healthy salmon runs have been maintained or rebuilt.

The people and the Governments of the countries which support Pacific salmon runs have often chosen to bear these expenses - whether direct or indirect - even when the annual costs exceeded the annual monetary return from the salmon harvest primarily because the long-term economic and social benefits promised to at least balance these outlays. In other words, the host States involved have invested heavily - and will have to continue investing - to not only maintain a viable commercial resource but, indeed, to assure the very survival of these species. Obviously, few Governments or their constituents could justify this continued expense unless they had some assurance of the imposition of limitations on ocean harvesting necessary to ensure that the measures they undertake in internal waters are not rendered ineffective.

Management considerations

This, then, brings us to the question of the times and places to which ocean harvesting should be limited. In the case of Pacific salmon there are two characteristics of the fishes which argue for strict limitation on the time and location of the ocean harvest. First, after many years of co-operative international investigations on the high seas, it has been determined that during much of their life at sea salmon stocks from various host countries intermingle in wide areas of the north Pacific Ocean. Therefore, over most of this broad expanse it would be virtually impossible to conduct a fishery for only those stocks which originated in any particular country. Furthermore, each stock of salmon - that is, those fish from a particular lake or tributary - represent a unique genetic pool from which the maximum production will be achieved only if it is managed in accordance with its individual and annual requirements for optimum escapement of spawners. On the high seas, even relatively close to the mouths of the spawning rivers, the various racial stocks are intermingled and, therefore, cannot be managed optimally. This problem can be illustrated by considering two hypothetical but typical stocks of the same species of salmon which originate in geographically close but hydrologically and liminologically different rivers. These stocks would have, in the course of their evolution, developed a genetic pool which best allows them to cope with the particular conditions of their natal streams. In a given year, the population from one stream may be very healthy and capable of supporting a large harvest while fish from the adjacent river, because of some natural phenomenon such as low water levels during the egg incubation period which resulted in the freezing of a high proportion of those eggs, may be in such low abundance when the mature fish return to the streams as to require virtually the entire run to escape to the spawning area if that parent-progeny cycle is to be restored to maximum production. Therefore, management criteria for each of these hypothetical populations are quite different - one is healthy and, for both biological and

economic reasons, should be harvested - the other is weak and most returning fish should be allowed to spawn. However, these two stocks may be intermingled throughout most of their oceanic migration and should they be subjected to a high seas fishery it would be virtually impossible to crop only fish from the healthy stock. The likely result of such a fishery would be an underexploitation of the healthy stock and an overexploitation, perhaps even extinction, of the stock which that year had no surplus available for harvest. Therefore, conservation can be fulfilled and management achieved only if these runs are harvested well inshore after they have segregated themselves into the appropriate stock units upon which individual management decisions can be applied.

The second characteristic is the relation between the rates of growth and natural mortality which leads to the conclusion that the greatest yield can be achieved by harvesting the salmon just before it re-enters fresh water. The growth of individual fish while they are still in the fresh-water phase of their life is relatively slow; even those fish which spend up to three years in fresh water rarely attain weights of more than 300 grams before they migrate to the sea. Following their adaptation to the marine environment, however, growth is rapid - often startlingly so - right up until the time that feeding ceases shortly before their entry into fresh water. In some cases, the weight of an individual salmon can double, sometimes triple and even occasionally quadruple during its last few months in the ocean. On the other hand, while death due to natural causes is quite high during the fresh-water phase of their life, and during the very early portion of the marine existence, as the fish grow and move beyond the inshore areas which tend to be higher in predators natural mortality decreases substantially. Scientific evidence indicates that during most of its marine life, and certainly during the last few months of its life in the ocean, the total increase in a salmon stock due to the growth of its individuals exceeds the total loss to the stock caused by natural mortality factors. Therefore, in the absence of high seas fishing during this period, the net change in the population is an increase in total biomass and, in turn, an increase in potential yield.

Bearing in mind these two considerations - the need for independent management of individual genetic units which are intermingled during most of their marine existence and the net increase in biomass during at least the latter part of the marine existence - a high seas fishery for salmon is unsound both in terms of the economics of the fisheries and the biology of the animals.

Relation to other high seas fishes

Finally, one might argue that the maintenance of high populations of salmon for the exclusive use of the host State might reduce, through competition or predation, the available stocks of other fish of the high seas which are being sought by other nations. However, scientific investigations of the feeding habits and the distribution of Pacific salmon during their marine phase indicate that, first, salmon are predominantly found in the epipelagic (that is uppermost) zone of the open ocean where they are rarely in geographic or biological association with any other commercially sought species. Secondly, the common food items found in the stomachs of these salmon are predominantly zooplankton and occasionally small midwater fishes, such as lantern fish, neither of which is the subject of commercial exploitation. The only time that predation or competition by salmon would have any significant effect on other desirable species is when the salmon are close to their host country - well in over the continental shelf - at

which time they often do feed on such fishes as herring and anchovies. In this case, however, the effects of competition or predation are a problem for the host country in weighing the pros and cons of maintaining their salmon populations at a high level.

Part II. Special considerations regarding the management of highly migratory oceanic fishes

A relatively small but important portion of the world marine fishery production comes from species which are characterized by extremely broad distributional ranges and large-scale, often trans-oceanic, migrations. A prime example of this type of resource is the tuna.

Distribution and life history

All of the commercially valuable tuna species are characterized by very extensive ranges of their populations, long migrations and high mobility. Their reproduction is not concentrated in space or time but occurs over long seasons and great expanses of the sea, as evidenced by collections of their eggs and larvae. The principal species of tuna occur around the entire world over a wide range of latitudes, and individual populations of these species also have very broad ranges.

Recent publications by FAO, based on a variety of tagging experiments, illustrate that: in a single year, albacore tuna migrate from off the east coast of Japan to the west coast of North America; northern bluefin tuna move from the East Coast of the United States to north-western Europe, the Bay of Biscay, and off Brazil; bigeye tuna migrate from the central Pacific to the far-western Pacific; southern bluefin tuna are all members of the same population which has a circumpolar distribution throughout the south Atlantic, Pacific and Indian Oceans; and skipjack tuna migrate from the extreme eastern Pacific, where they are only seasonal visitors, to mid-Pacific waters.

Morphological study of yellowfin tuna in the Pacific Ocean has indicated that there are likely to be a number of more or less discreet populations distributed across the tropical zone from Asia to the Americas, probably mingling to an unknown degree where their ranges overlap. The number of such populations and the extent of the area which each occupies are not known with certainty. It is known, however, that in the eastern tropical Pacific the yellowfin from northern Chile to southern California and more than 1,000 miles to seaward react as a single stock to fishing pressure and conservation measures.

Within these enormous areas, the tuna populations move rapidly in response to ecological influences and physiological needs which are as yet little understood. The tunas are fast swimmers, and they are never at rest. It appears that constant motion is a requisite for maintaining a flow of water over their gills, for enabling them to maintain their depth in the water column, and for seeking their food, which consists of a great variety of organisms sparsely scattered through relatively barren oceanic waters. Because of this great mobility throughout the broad areas which they inhabit, the availability of tuna to capture within a given fishing ground is highly variable and largely unpredictable with our present knowledge.

The tuna also grow rapidly, with the result that only a few year-classes are available to fishing at any one time by any given fishing technique. The fecundity of the tunas is high, with large individuals spawning more than a million eggs at a time. However, fertilization is external, and the eggs and larvae receive no parental care, so that the natural mortality in these early stages is undoubtedly great. The young tuna are preyed upon by other fishes, such as larger tuna and billfishes, and the proportion which survive to reach maturity is very small.

The biological characteristics which have been briefly described above have certain implications for the exploitation and scientific study of the tuna resources and for the conservation of the tuna fisheries. Those implications are discussed under the appropriate headings below.

Exploitation

Since the tuna populations inhabit large areas of the open ocean, within which they move extensively, rapidly and to a high degree unpredictably, they can be most successfully fished by vessels which also have long-range, high speed and the ability to operate in open ocean conditions. Smaller vessels of limited operating range must in effect wait for the tuna to come to them, rather than pursuing the schools wherever they may go. Experience has shown that even in the best localized tuna grounds the availability of fish can vary greatly from year to year, even though the abundance of the total tuna population throughout its range may remain at about the same level. For example, in the eastern Pacific there are excellent tuna fishing grounds within a few miles of the coasts of Ecuador and Peru, but there are times when the tuna do not put in an appearance in those areas in good abundance for a whole year or two. At such times, the small-boat fleets are unprofitable while the large vessels of the countries with distant-water tuna fleets may be enjoying excellent fishing in other parts of the region inhabited by the same tuna stocks. Indeed, because the tunas are found in all oceans, it is an efficient strategy in some cases for the operators of large modern tuna-boats to have them fish in different oceans at different times of the year. Thus, we find that many of the most efficient tuna seiners, which have their basic fishing grounds in the eastern Pacific, are now spending several months of each year on the grounds of the eastern Atlantic, while conversely seiners which have traditionally fished in the Atlantic are increasingly spending part of the year on the eastern Pacific grounds.

Tuna longline fishing vessels have particularly great mobility and flexibility of operation, and may fish in the Pacific, Indian and Atlantic Oceans in the course of a year, depending on where the availability of their target species is highest at any given time. Even within the duration of a single voyage, an efficient modern tuna-boat may operate at locations separated by hundreds if not thousands of miles. Since all modern tuna fishing vessels freeze their catches aboard, their product is imperishable and easily transportable. This means that they may base their operations in any port where there are cold-storage facilities and refrigerated cargo ship service for transporting the frozen tuna to processing centres. Many ports around the world are now used for trans-shipment of tuna, and the major tuna canners receive raw material from a great variety of sources in addition to the domestic landings of their national fleets. The United States tuna canning industry, for example, derives more than half of its raw material from imports, which are made up of the catches of vessels of many nationalities, including United States flag vessels which trans-ship their catches through foreign ports.

There are three principal techniques used for catching tuna -- pole-and-line fishing using live bait, longlining and purse seining. These methods differ in the degree of their independence from the coast and their ability to freely follow the movements of the tuna through the waters of the open ocean. The pole-and-line fishermen are the most closely bound to coastal waters, since that is where they must catch their supplies of live-bait. However, where this kind of tuna fishing is well developed, as particularly in the western Pacific, the fishermen have developed equipment and techniques which enable them to carry adequate supplies of live-bait to fishing grounds far offshore. Purse seining, although not directly dependent on coastal logistic support as is live-bait fishing, has until recently been carried on in areas relatively close to coasts, and particularly off the coast of the eastern tropical Pacific, because sea conditions in those areas have been most suitable for the use of these large encircling nets to capture the tuna. In recent years there has been a strong expansion of purse seine fishing offshore in the eastern Pacific, with considerable and increasing catches being taken as much as 1,000 miles from the coast. Longline fishing, which catches tuna on hooks baited with small frozen fish and suspended from buoyed lines, is the most truly pelagic and independent of the major tuna fishing methods. It is carried on in all parts of the open sea where oceanographic conditions are propitious for the occurrence of tuna, and it accounts for more than half of the total world tuna catch.

Thus it is apparent that the most effective techniques and strategies for exploiting the tunas must be those which most closely approximate the range and mobility of the tunas themselves, and there is evidence that where tuna fishermen are not prevented from doing so by artificial constraints they strive to become as fully pelagic as the fish which they pursue.

It is quite clear that countries with relatively short coastlines will have very little hope of establishing prosperous fisheries for tunas if their fishermen cannot follow these widely ranging species into exclusive 200-mile zones off the coasts of other countries. It may be argued that there is nothing about a 200-mile zone which prevents neighbouring coastal States in a region from agreeing upon a régime which will permit their fishermen to move back and forth from one nation's zone to another. In theory it may appear to be a sound argument, but the practice of the 200-mile zone doctrine -- as opposed to its theory -- has not been such as to lead one to find much comfort in that argument.

When such artificial constraints are imposed on the freedom of movement of tuna vessels, efficiency drops, catches are reduced, the supply available to mankind is diminished, and what supply there is, is available at a higher cost -- a higher cost not only to the consumer, but to the world as a whole.

Research

Effective and rational conservation of tuna resources, as of other kinds of fishery resources, requires a knowledge of the biology, population structure and abundance of the tuna species which can only be gained through scientific research. Because the tunas spend their entire lives roaming freely in the open ocean, they are only sporadically accessible to direct observation, and the task of obtaining the required scientific information is extremely difficult and costly to accomplish. Large research vessels are needed to do the scientific work, which must cover great areas over long time periods. Experience to date indicates

that even the most affluent countries with the greatest interest in the tuna resources have not been able individually to support a research effort adequate to the task. Even the co-operative research programmes supported by a number of interested Governments, like that of the Inter-American Tropical Tuna Commission in the eastern Pacific, have not received financial support that would make it possible to provide a base of scientific information as solid as it should be for making management decisions affecting a multimillion-dollar industry. It seems clear that tuna research approaching adequacy can never be achieved except through broad and intensive international co-operative programmes, which must of course extend into all of the waters inhabited by the tuna stocks under investigation if they are to produce useful results. If, for example, a country exercises jurisdiction over an area of the sea which includes part of the range of a tuna population, and that country is unable to do an adequate job of research on the tuna within that area and unwilling to allow research vessels of other countries to do it, the unfortunate result can only be a gap in the scientific knowledge concerning that stock of tuna. Likewise, since all important tuna resources are exploited by fishermen of more than one country, and since fishery data, such as catch and effort statistics, are an indispensable element in research for fishery management purposes, intergovernmental co-operation is essential for making such data compatible and placing the total body of data at the disposal of competent scientists for analysis. One of the most important research problems for conservation purposes is that of defining the real limits of the various tuna populations. The solution of this problem is commonly sought by the release and recapture of tagged fish, which requires extensive research vessel operations and is very expensive, or by the collection of samples over broad areas and their analysis for morphological and biochemical differences, which require international co-operation for the collection, and capabilities found in only a few laboratories for the analysis.

Conservation

Like the research upon which they should be based, conservation measures must also be applied by international co-operation in order to be effective. The things that man can do to conserve tuna resources are limited by the nature of the animals and their ecology. Man can do nothing to actively foster the propagation of the tunas nor can he feasibly control their natural predators. Their open ocean habitat is beyond his power to influence, and even the grossest man-made pollution probably has little effect upon these species. The conservation measures which are in use at the present time are of two kinds: a limitation of the total catch from a given stock in order to maintain it at a high level of productivity, and a minimum size limit of capture in order to maximize the return from each fish recruited into the fishable stock. These measures will be most effective only if they are applied uniformly to all fishing within the total area where the given stock is exploited. If the jurisdictional basis for management of these species did not coincide with their distribution the potential for mismanagement would be great. We might consider the not really hypothetical case of a tuna population which inhabits an area extending into waters over which several nations assert jurisdiction and also into far offshore areas beyond any national jurisdiction. If each of the coastal States were to set independently a catch quota for the waters where it exercises jurisdiction over fishing, and another separate quota were to be established by some other mechanism for the area beyond national jurisdiction, or if various minimum size limits were set for these various subdivisions of the tuna stock's range, the result in terms of conservation could hardly be very rational or effective. If the sum total of the separate catch

quotas happened to be less than the maximum sustainable yield of the stock, conservation would certainly be effected, but there would also be a serious risk of wastage of the potential harvest because of the great variability with which tuna become available to fishing in various parts of their range from year to year. For example, a 50,000-ton quota in one subdivision of the range would be meaningless in years when only 25,000 tons become available to capture there, and it would be economically pernicious in years when the same area offers the possibility of catching 75,000 tons out of a total permissible yield from the stock of 150,000 tons. If, on the other hand, the sum total of the separate quotas happened to exceed the maximum sustainable yield of the stock, overfishing would occur.

The result would be similar if, alternatively, an over-all quota were established for a stock which is distributed in several national jurisdictions and in an area not under the jurisdiction of any State and that quota were sub-allocated geographically among the areas of national jurisdiction and the area not under national jurisdiction. While it is true that the over-all limit would likely not be exceeded, the great risk would be that catches would fall substantially below that allowed with the economic results noted above. It seems obvious that the only rational way to apply a catch quota system for conservation of a tuna population is in the form of one single co-ordinated quota for the whole area inhabited by the population. Since the populations do occur in several national jurisdictions and also beyond and they are fished by nationals of several countries, the application of such a co-ordinated quota requires international management of the fishery for conservation purposes.

2

Colombia, Mexico and Venezuela: draft articles of treaty*

Territorial sea

SECTION I. GENERAL PROVISIONS

Article 1

1. The coastal State has sovereignty over an area of the sea immediately contiguous to its territory and inland waters designated as the territorial sea.

2. The sovereignty of a coastal State extends to the sea-bed and subsoil and the superjacent air space of the territorial sea.

3. The sovereignty of the coastal State is exercised in accordance with the provisions of these articles and other rules of international law.

Article 2

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

Article 3

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

* Originally issued as document A/AC.138/SC.II/L.21.

SECTION II. LIMITS (Applicable baselines and delimitation between States)

SECTION III. RIGHT OF INNOCENT PASSAGE

Patrimonial sea

Article 4

The coastal State has sovereign rights over the renewable and non-renewable natural resources which are found in the waters, in the sea-bed and in the subsoil of an area adjacent to the territorial sea called the patrimonial sea.

Article 5

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

Article 6

The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea.

Article 7

The coastal State shall authorize and regulate the emplacement and use of artificial islands and any kind of facilities on the surface of the sea, in the water column and on the sea-bed and subsoil of the patrimonial sea.

Article 8

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

Article 9

In the patrimonial sea, ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight with no restrictions other than those resulting from the exercise by the coastal State of its rights within the area.

Article 10

Subject only to the limitations established in the preceding article, the coastal State shall respect the freedom to lay submarine cables and pipelines.

Article 11

1. The coastal State shall exercise jurisdiction and supervision over the exploration and exploitation of the renewable and non-renewable resources of the patrimonial sea and over allied activities.

2. In exercising such powers, the coastal State shall take appropriate measures to ensure that such activities are carried out with due consideration for other legitimate uses of the sea by other States.

Article 12

In exercising the freedoms and rights this Convention confers on other States, the latter shall not interfere in the activities referred to in the preceding article.

Continental shelf

Article 13

The term "continental shelf" means:

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

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

Article 14

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

Article 15

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

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

High seas

Article 16

Freedom of navigation, overflight and the laying of submarine cables and pipelines shall exist in the high seas. Fishing in this zone shall be neither unrestricted nor indiscriminate.

Article 17

The coastal State has a special interest in maintaining the productivity of the living resources of the sea in an area adjacent to the patrimonial sea.

Regional agreements

Article 18

No provision of this Treaty shall be interpreted as preventing or restricting the right of any State to conclude regional or subregional agreements to regulate exploitation or distribution of the living resources of the sea, preservation of the marine environment or scientific research, or as affecting the legal validity of existing agreements.

10

Turkey: draft article related to 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*

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

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

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

11

Turkey: draft article related to 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**

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

* Originally issued as document A/AC.138/SC.II/L.22.

** Originally issued as document A/AC.138/SC.II/L.22/Rev.1.

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

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

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

12

Jurisdiction of coastal States over natural resources of
the area adjacent to their territorial sea: working paper
submitted by Iceland*

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

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

13

Uruguay: draft treaty articles on the territorial sea**

In the course of evolution of the international law of the sea, the institution of the territorial sea is one of those which have undergone most revision, and it is undoubtedly one of the most important subjects that the Committee has taken up for study under General Assembly resolutions 2750 C (XXV) and 3029 A (XXVII).

These draft articles do not cover all questions relating to the territorial sea; they leave aside some important issues such as the definition and regulation of innocent passage, on which several delegations have submitted draft articles, and other topics dealt with in other draft texts.

In submitting this document the delegation of Uruguay hopes to bring what it considers some fundamental ideas to the task of restructuring the institution of the territorial sea and, by embodying them in draft articles, to contribute to the progress of the Committee's work.

The proposed provisions are based on the following considerations:

1. That the seas adjacent to the coasts of the different regions of the world vary in geographical, geological, biological and ecological characteristics.

* Originally issued as document A/AC.138/SC.II/L.23.

** Originally issued as document A/AC.138/SC.II/L.24.

The recognition of this fact has the important legal consequence that the extent of the sovereignty of coastal States over the adjacent seas may vary according to those characteristics within a universal maximum limit;

2. That these situations, determined by nature and by political, economic, social and cultural factors arising out of the present structure of the international community, justify or require, in certain circumstances and with due respect for the rights of other neighbouring coastal States on the same sea, the extension of the sovereignty of the coastal States over their adjacent sea up to limits as broad as is reasonably necessary in order to maintain their security, to preserve the integrity of the marine environment, to explore, conserve and exploit the natural resources of that sea and to ensure the rational utilization of those resources in order to promote the maximum development of their economy and to raise the level of living of their peoples;

3. That these broad extensions of the maritime sovereignty of coastal States bring into play new interests which need to be co-ordinated. In particular the draft articles seek to reconcile the exercise of State sovereignty over broad areas of the adjacent sea with the interests of international communication and to secure, by giving it the sanction of international law, the freedom of navigation, of overflight and of the laying of submarine pipelines and cables in any belt of territorial sea which extends beyond 12 miles as measured from the baseline;

4. That the co-ordination of these interests should be effected within the framework of the basic institutions of the international law of the sea which, inasmuch as they embody a logical alternative, continue to be valid in essentials without prejudice to their adaptation to the new conditions prevailing in the modern world and the requirements of the peoples.

Maritime areas are governed by two fundamental legal statutes: one based on the principle of sovereignty and the other on the principle of freedom, to which the two traditional institutions of the territorial sea and the high seas correspond.

Whatever the historical and legal limitations placed upon these two principles, which have never been accorded outright application, the essence of the legal régime applicable is always to give preference to one or the other, this preference being reflected, in the last analysis, in the residual application of the principle concerned.

The draft articles presented below reflect the process of revision or reformulation that the traditional institutions are undergoing through the shift in the balance of interests on which they are based; they propose a reorganization of the protection given to those interests and a new distribution of the consequent rights and obligations within the logical equation of sovereignty and freedom.

Through the concept of plurality or duality of régimes of the territorial sea, therefore, this institution is given a new structure which maintains as its essential feature the prevalence of the principle of sovereignty but adapts it to the realities it has to govern, and dynamically reconciles the rights of the coastal State with those of other States and of the international community. The draft articles also provide for three special situations, that of archipelagic States, that of land-locked States and that of coastal States on seas which

constitute a region or subregion with distinctive characteristics; solutions proposed in specific drafts submitted by other delegations have been adopted or taken as a guide.

TERRITORIAL SEA

SECTION I. GENERAL

Article 1

1. A coastal State exercises sovereignty over a belt of sea adjacent to its coast and to its internal waters, described as the territorial sea.

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

SECTION II. LIMITS OF THE TERRITORIAL SEA

Article 2

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

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

Article 3

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

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

Article 4

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

Article 5

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

Article 6

Identical with article 5 of the Geneva Convention (internal waters).

Article 7

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

Article 8

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

Article 9

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

Article 10

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

Article 11

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

Article 12

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

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

Article 13

Identical with article 11 of the Geneva Convention.

Article 14

Identical with article 13 of the Geneva Convention.

SECTION III. REGIMES APPLICABLE TO INTERNATIONAL COMMUNICATION

Article 15

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

Article 16

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

Beyond the said 12 nautical miles, ships and aircraft of all States, whether coastal or not, shall enjoy the right of free navigation 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.

Articles 17 et seq.

(Definition of innocent passage. Rules applicable to the various types of ships.)

SECTION IV. LAYING OF SUBMARINE PIPELINES AND CABLES

Article ...

Subject to the regulations and measures referred to in article 16, the coastal State may not impede the laying or maintenance of submarine pipelines and cables on the bed of the area of its territorial sea situated beyond 12 nautical miles measured from the applicable baselines.

In such cases the coastal State shall be given advance notice and due account shall be taken of cables and pipelines already in position and, in particular, of the possibility of repairing them.

Article ...

Any break in or damage to a submarine cable in the area referred to in the preceding article, caused deliberately or by culpable negligence, which interrupts or obstructs telegraphic or telephonic communications, and any break or damage caused, under the same conditions, in or to a high-voltage cable or submarine pipeline shall be punishable and shall give rise to the consequent liabilities under the laws of the coastal State and the jurisdiction of its courts.

Nothing in the laws enacted on the subject by the coastal State shall affect the lawful exercise of the right of other States to lay submarine pipelines and cables under the conditions laid down in these articles, or shall penalize the perpetrator of any break or damage if he acted solely for the legitimate purpose of protecting his life or the safety of his vessel after taking all necessary precautions to prevent such break or damage.

SECTION V. PROTECTION OF THE MARINE ENVIRONMENT

Article ...

A coastal State is under a duty to adopt on its territorial sea appropriate measures to shield the marine environment from the damage and risks of pollution and other effects harmful or dangerous to its ecosystem and to protect the quality and use of the waters, living resources, human health and other interests of its population, taking into consideration the recommendations and standards of international technical organizations and co-operation with other States.

SECTION VI. SCIENTIFIC RESEARCH

Article ...

In making regulations on scientific research in its territorial sea, a coastal State shall take special account of the general interest in promoting and facilitating such activities, provided that they do not affect its security and without prejudice to its right to participate in them and to receive the results obtained.

SECTION VII. REGIME FOR COUNTRIES HAVING NO SEA-COAST

Article ...

1. States having no sea-coast shall have free access to the territorial seas of coastal States which are their neighbours or which belong to the same subregion, in order to exercise the rights stipulated in such special régimes as may be instituted by bilateral or subregional agreements and to enjoy, on equal terms with coastal States, the freedoms of the high seas.

2. For the purposes specified in the preceding paragraph, States situated between the sea and a State having no sea-coast shall, in conformity with their municipal laws and such bilateral or subregional agreements as they may conclude on the subject, guarantee the latter State free transit through their territories, grant appropriate facilities in order to effect such transit, and accord to ships flying the flag of that State treatment equal to that accorded to their own ships as regards access to seaports and the use of such ports.

Article ...

Coastal States shall, through bilateral or subregional agreements, as the case may require, in which the interests of all parties are given fair consideration, accord to States having no sea-coast which are their neighbours or which belong to the same subregion preferential treatment over third States with regard to fishing rights in that area of their territorial sea which is not reserved exclusively for their nationals. Such preferential treatment shall be reserved for national enterprises of the States having no sea-coast which operate in the area exclusively with ships flying the flag of those States and whose catch is intended for domestic or industrial consumption in the said States, or for national enterprises of the States having no sea-coast which are associated with national enterprises of the coastal States.

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*

Article A

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

2. The breadth of the territorial sea shall in no case exceed 200 nautical miles measured from the baselines determined in accordance with article ... of the present Convention.

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

Article B

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

Union of Soviet Socialist Republics: rough draft of basic provisions on the question of the outer limit of the continental shelf**

1. The outer limit of the continental shelf may be established by the coastal State within the 500-metre isobath.

2. In areas where the 500-metre isobath referred to in paragraph 1 hereof is situated at a distance less than 100 nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding 100 nautical miles.

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

* Originally issued as document A/AC.138/SC.II/L.25.

** Originally issued as document A/AC.138/SC.II/L.26.

Draft articles for inclusion in a convention on the law of the sea: working paper submitted by the delegations of Ecuador, Panama and Peru*

PART 1

/ADJACENT SEA/

SECTION I. GENERAL PROVISIONS

Article 1

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

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

Article 2

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

SECTION II. BASELINES

(Provisions on delimitation between States whose coasts are opposite or contiguous.)

Article 3

1. The area of sovereignty and jurisdiction of an archipelagic State may be measured from straight baselines joining the outermost points of the outer islands and reefs of the archipelago.

2. In such cases, the waters enclosed by the baselines shall be considered internal waters, though vessels of any flag may sail in them, in accordance with the provisions laid down by the archipelagic State.

... (Complementary provisions)

SECTION III. NAVIGATION REGIME

Article 4

1. In the sea under the sovereignty and jurisdiction of the coastal State,

* Originally issued as document A/AC.138/SC.II/L.27 and Corr.1 and 2.

vessels of any flag may sail freely, without restrictions other than those imposed by the duties of peaceful co-existence and compliance with the provisions laid down by the coastal State as regards the prospecting, exploration, conservation and exploitation of resources, the preservation of the marine environment, scientific research, the emplacement of installations and safeguards for navigation and shipping.

2. In so far as they are relevant, the provisions of the preceding paragraph shall also apply to aircraft.

Article 5

Notwithstanding the provisions of article 4, the coastal State may lay down additional provisions for the passage of foreign vessels and aircraft within a limit close to its coast, for the purpose of safeguarding national peace, order and security.

... (Complementary provisions, including passage through straits used for international navigation)

SECTION IV. NATURAL RESOURCES REGIME

Article 6

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

Article 7

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

Article 8

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

... (Complementary provisions on natural resources)

SECTION V. POLLUTION CONTROL REGIME

Article 9

It shall be the responsibility of the coastal State to establish measures to

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

... (Complementary provisions on pollution)

SECTION VI. SCIENTIFIC RESEARCH REGIME

Article 10

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

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

... (Complementary provisions on scientific research)

SECTION VII. REGIME GOVERNING INSTALLATIONS

Article 11

The coastal State shall permit the laying of submarine cables and pipelines in its adjacent sea, without restrictions other than those that may result from the provisions referred to in article 4, paragraph 1.

Article 12

The emplacement and use of artificial islands and other installations and devices on the surface of the sea, in the water column and on the bed or in the subsoil of the adjacent sea shall be subject to authorization and regulation by the coastal State.

... (Complementary provisions on installations)

SECTION VIII. REGIONAL AND SUBREGIONAL REGIMES

Article 13

1. In regions or subregions in which certain coastal States, owing to geographical or ecological factors, are unable, before all their coastlines, to extend the limits of their sovereignty and jurisdiction up to distances equal to those adopted by other coastal States in the same region or subregion, the former States shall enjoy, in the seas of the latter States, a preferential régime vis-à-vis third States in matters relating to the exploitation of renewable

resources, the said régime to be determined by regional, subregional or bilateral agreements taking into account the interests of the respective States.

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

Article 14

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

... (Complementary provisions on regional and subregional agreements)

SECTION IX. LAND-LOCKED COUNTRIES REGIME

Article 15

1. Land-locked States shall have the right of free access to the sea for the purpose of such uses and such preferential régime as they may agree upon with the neighbouring coastal States within the seas adjacent to the latter, and for enjoyment of the freedoms of the international seas.

2. Such uses and such preferential régime in the seas adjacent to the neighbouring coastal States as may be agreed upon shall be reserved to national enterprises of the land-locked State.

3. For the purposes provided for in this article, coastal States shall guarantee neighbouring land-locked States free passage through their territories, as well as equal treatment as regards entry into and use of ports, in accordance with internal legislation and any relevant agreements they may conclude.

Article 16

Coastal States which are not adjacent to land-locked States in the same region or subregion shall accord uses and a preferential régime within their adjacent seas to national enterprises of such land-locked States, under regional, subregional or bilateral agreements taking the interests of the respective States into account.

... (Complementary provisions on the régime for land-locked countries)

PART II

CONTINENTAL SHELF

... (Provisions to be considered for cases in which the continental shelf extends beyond the limits referred to in article 1)

PART III

INTERNATIONAL SEAS

Article 17

The term "international seas" shall denote that part of the sea which is not subject to the sovereignty and jurisdiction of coastal States.

Article 18

The international seas shall be open to all States, whether coastal or land-locked, and their use shall be reserved for peaceful purposes.

Article 19

The following freedoms shall be exercised on the international seas:

- (1) freedom of navigation;
- (2) freedom of overflight;
- (3) freedom to lay submarine cables and pipelines;
- (4) freedom to emplace artificial islands and other installations permitted under international law, without prejudice to the provisions of article 24;
- (5) freedom of fishing, subject to the conditions laid down in article 20;
- (6) freedom of scientific research, subject to the conditions laid down in article 23.

These freedoms shall be exercised by any State, with due consideration for the interests of other States in the exercise of the same freedom.

... (Complementary provisions)

Article 20

1. Fishing and hunting in the international seas shall be subject to regulations of a world-wide and regional nature.
2. The aforesaid activities shall be carried out by techniques and methods which do not jeopardize adequate conservation of the renewable resources of the international seas.

Article 21

The coastal State has a special interest in maintaining the productivity of renewable resources in any part of the international seas adjacent to the area subject to its sovereignty and jurisdiction.

Article 22

All States shall be obliged to comply with international regulations designed to prevent, reduce or eliminate any damage or risks arising from pollution or other effects detrimental or dangerous to the ecological system of the international seas, water quality and use, living resources and human health.

... (Complementary provisions on pollution)

Article 23

Scientific research in the international seas shall be open to any State and shall be promoted and facilitated under forms of co-operation and assistance which permit the participation of all States, irrespective of their level of development or of whether they are coastal or land-locked.

... (Complementary provisions on scientific research)

Article 24

The emplacement of artificial islands or any other type of installations apart from submarine cables or pipelines shall be subject to international regulations.

... (Complementary provisions on the international seas)

PART IV

BED AND SUBSOIL OF THE INTERNATIONAL SEAS

17

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*

Introductory note

The present preliminary draft articles, which do not necessarily represent the definitive views of the Government of Malta on all the complex matters dealt with therein, are intended to replace and to amplify the articles contained in parts II and III of the Malta draft treaty originally issued as document A/AC.138/53. In addition, some of the subjects mentioned in part I of the Malta draft treaty, such as submarine cables and pipelines, overflight and scientific research, are also dealt with in the present articles in so far as they related to the rights and obligations of coastal States within ocean space under their jurisdiction.

The present draft articles are based on the same basic concepts as the Malta draft treaty, in so far as such concepts can be applied to ocean space within the jurisdiction of a coastal State. Hence they should be read in conjunction with parts IV and V of the Malta draft treaty which deal with the purposes and functions of future international institutions for ocean space.

* Originally issued as document A/AC.138/SC.II/L.28.

The present document has been prepared on the basis of, inter alia, the following considerations:

(a) that it is necessary to establish a new and more equitable international order in ocean space within the framework of which States can expand their beneficial use of ocean space in contemporary conditions of intensive activities accompanied by increasingly powerful technology, without harm to vital international interests or without causing excessive injury to the marine environment;

(b) that such a new order cannot be founded on the basic concepts of traditional law of the sea, which is increasingly eroded by advancing technology and multiplying activities in ocean space, but instead must be based on a new balance between coastal State interests and between these and the interests of the international community; in establishing this balance the interests of land-locked countries cannot be overlooked;

(c) that both aerial and maritime navigation, scientific research and the laying and repair of submarine cables are vital international activities which must be protected within national jurisdiction. These activities, in fact, are public international interests which require general regulation but also international protection to a greater or lesser extent everywhere in ocean space;

(d) that the avoidance of significant and extensive ocean pollution and the effective management of the living resources of the sea are both national and international interests of great importance which must be suitably protected within national jurisdiction;

(e) that the only manner credibly to protect the interests and activities mentioned in (c) and (d) above is by giving important functions to appropriate international institutions and to an impartial judicial machinery;

(f) that it is imperative that reasonably precise maximum limits to national jurisdiction in ocean space be recognized by international agreement and that this is impossible unless the traditional concept of separate régimes and limits for the legal continental shelf and the superjacent waters is rejected;

(g) that it is imperative under contemporary conditions to define with some precision the rights and obligations of coastal States within the over-all maximum limits of their national jurisdiction in ocean space with regard to major activities in ocean space;

Although the present draft attempts to present an over-all view both of limits of national jurisdiction and of the rights and obligations of the coastal State therein, there is no intention to prejudice the question of whether one or several conventions should be adopted by the future conference on the law of the sea and each chapter could be considered separately in the context of different treaties with regard to different maritime activities.

PART I: COASTAL STATE JURISDICTION IN OCEAN SPACE

Chapter I: Definitions

Article 1

National jurisdiction means the legal power of a coastal State to control and regulate a defined area of ocean space adjacent to its coast, subject to limitations of international law designed to protect the interests of the international community.

Ocean space comprises the surface of the sea, the water column and the sea-bed beyond internal waters.

National ocean space means that part of ocean space which is under the jurisdiction of a State.

Sea-bed means (a) the floor of the sea or of the ocean and (b) the subsoil or rock underlying the sea floor or the ocean floor.

An island is a naturally formed area of land, more than one square kilometre in area, surrounded by water, which is above water at high tide. 1/

An islet is a naturally formed area of land, less than one square kilometre in area, surrounded by water, which is above water at high tide.

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. 2/

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 be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation. 3/

The term vessel includes boats, ships, submersibles, man-made installations or systems which, whether self-propelled or by some other means moves or can be moved from one part of ocean space to another. Man-made installations do not possess the legal status of vessels when they are joined to the sea bed in a manner that denotes a degree of permanency. 4/

1/ See Convention on the Territorial Sea and the Contiguous Zone (United Nations, Treaty Series, vol. 516, No. 7477), article 10.

2/ See ibid., article 11.

3/ See ibid., article 7 (1).

4/ In view of the progress of technology, it has been considered advisable to substitute the term "vessel" for the term "ship" used in the 1958 Geneva Conventions. At the same time, in order to clarify questions of jurisdiction, it has been considered desirable explicitly to exclude from the definition of vessels, man-made installations joined to the sea-bed in a manner that denotes a degree of permanency.

Chapter II: General

Article 2

1. The jurisdiction of a State extends to a belt of ocean space adjacent to its coast, described as national ocean space.
2. This jurisdiction is exercised subject to the provisions of these articles and to other rules of international law.
3. The jurisdiction of a coastal State extends to the air space above national ocean space. 5/

Chapter III: Baselines

Article 3

1. The normal baseline for measuring the breadth of national ocean space is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State and deposited with the international ocean space institutions. 6/
2. The international ocean space institutions shall give wide publicity to the charts deposited with them.

Article 4

1. In localities where the coastline is deeply indented or if there are islands or islets in the immediate vicinity of the coast the method of straight baselines joining appropriate land points not more than 24 nautical miles apart may be employed in drawing the baselines from which the breadth of national ocean space is measured. 7/
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. 8/
3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanent above sea level have been built on them. 9/
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/ This article corresponds, with modifications, to article 1 and article 2 of the Convention on the Territorial Sea and the Contiguous Zone.

6/ Slight modification of article 3 of the Convention on the Territorial Sea and the Contiguous Zone.

7/ Gives more precision to article 4 (1) of the Convention on the Territorial Sea and the Contiguous Zone.

8/ Convention on the Territorial Sea and the Contiguous Zone, article 4 (2).

9/ Ibid., article 4 (3).

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. 10/

6. The coastal State must clearly indicate straight baselines on large scale charts which shall be deposited with the international ocean space institutions. 11/

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

Article 5

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

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

Article 6

1. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 miles, a closing line may be drawn between these two low-water marks and the waters enclosed thereby shall be considered as internal waters. 14/

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. 15/

3. The foregoing provisions shall not apply to so-called historic bays or in any case where the straight baseline system provided for in article 4 is applied. 16/

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 institutions may object to the contents of lists,

10/ See ibid., article 4 (5).

11/ See ibid., article 4 (6).

12/ Ibid., article 5 (1).

13/ See for analogy ibid., article 5 (2).

14/ Ibid., article 7 (4).

15/ Ibid., article 7 (5).

16/ Ibid., article 7 (6).

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. 17/

Article 7

1. For the purpose of delimiting national ocean space, the outermost permanent harbour works which form an integral part of a coastal harbour system and which are above water at high tide shall be regarded as forming part of the coast. 18/

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

Article 8

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks. 19/

Chapter IV: Limits of national ocean space

Article 9

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

Article 10

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

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

18/ See Convention on the Territorial Sea and the Contiguous Zone, article 8.

19/ See ibid., article 13.

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.

Article 11

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

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

3. When islands are less than 10 square kilometres in area, the jurisdiction of the State exercising sovereignty or control may extend only to a belt of ocean space, adjacent to the coasts of such an island, the breadth of which does not exceed 12 nautical miles measured from the applicable baseline.

Special rules concerning atolls

Article 12

Atolls are a chain of islands or islets crowning a circular or oval reef which encloses a lagoon.

Article 13

1. In the case of atolls, the baseline for measuring the breadth of national ocean space is the seaward edge of the reef whether or not the reef is submerged at high tide.

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

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

Article 14

1. Jurisdiction over ocean space outside the area enclosed by the reef may not be claimed by a State by virtue of sovereignty or control over an atoll when the total land area of the islets crowning the reef does not exceed one square kilometre.
2. When the islands or islets crowning the reef of an atoll have a total land area exceeding one square kilometre but less than 10 square kilometres, the jurisdiction of the State exercising sovereignty or control may extend to a belt of ocean space adjacent to the outer edge of the reef the breadth of which does not exceed 12 nautical miles.

Article 15

The extent of jurisdiction over ocean space which may be claimed by a State by virtue of sovereignty or control over islands and atolls other than those referred to in the foregoing articles of this chapter shall be determined in a special convention or conventions to be negotiated within the framework of the international ocean space institutions, taking into account all relevant circumstances.

Article 16

The outer limit of national ocean space is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of national ocean space. 20/

Article 17

1. Contracting Parties agree to surrender against equitable and appropriate compensation their claims to jurisdiction over the sea-bed or waters beyond the limits indicated in these articles.
2. The compensation referred to in the foregoing paragraph shall be determined by the international ocean space institutions in the light of all relevant factors, including the known resources of the areas of ocean space surrendered and the practical possibilities of exploration. In the event that the compensation proffered by the international ocean space institutions is considered inadequate by the Contracting Party concerned, the matter shall be submitted for binding adjudication to the International Maritime Court.
3. No compensation may be proffered by the international ocean space institutions in the case of surrender of claims to jurisdiction over areas of ocean space adjacent to (a) reefs and low-tide elevations; (b) man-made islands; (c) fixed or floating installations of whatever nature; (d) underwater installations or works of whatever nature; (e) islets situated within the national ocean space of a State other than the State exercising sovereignty or control over them.

20/ Ibid., article 6.

Article 18

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

Chapter V: Delimitation of national ocean space

Article 19

1. Where two or more States, whose coasts are opposite each other, are separated by an area of ocean space less than 400 nautical miles in breadth, the boundary of national ocean space appertaining to such States shall be the median line every point of which is equidistant from the nearest points of the baselines from which the breadth of national ocean space of each State is measured.
2. Where two States are adjacent to each other the boundary of ocean space appertaining to such States shall be determined by the application of the principle of equidistance from the nearest points of the baselines from which the breadth of national ocean space is measured. 21/
3. The provisions of the foregoing paragraphs shall not apply where it is necessary by reason of historic title or other exceptional circumstance to delimit the national ocean space of the States opposite or adjacent to each other in a manner which is at variance with those provisions.
4. In the event of disagreement between States opposite or adjacent to each other with regard to the manner of delimitation of their respective national ocean space, the matter shall be submitted to arbitration or to the International Maritime Court for binding adjudication at the request of any of the States concerned.
5. In the event of disagreement between a coastal State or States and the international ocean space institutions with regard to the manner of delimitation of international ocean space and national ocean space respectively, the matter shall be submitted to arbitration or to the International Maritime Court for binding adjudication at the request of any Parties concerned.
6. The lines of delimitation between the national ocean space of two States lying opposite or adjacent to each other shall be marked on large-scale charts officially recognized by the States concerned and deposited with the international ocean space institutions. 22/

21/ See for analogy Convention on the Continental Shelf (United Nations, Treaty Series, vol. 499, No. 7302), article 6.

22/ See Convention on the Territorial Sea and the Contiguous Zone, article 12 (2).

PART II: RIGHTS AND OBLIGATIONS OF THE COASTAL STATE
WITHIN NATIONAL OCEAN SPACE

Chapter VI: Navigation

Article 20

1. Subject to the provisions of these articles, vessels of all States, whether coastal or not, shall enjoy the right of passage through national ocean space.
2. Passage means navigation through national ocean space for the purpose either of traversing it without entering internal waters or of proceeding to internal waters, or of making for international ocean space from internal waters.
3. Passage includes stopping and anchoring in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress. 23/

Article 21

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

Article 22

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

Article 23

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

23/ See ibid., article 14 (1), (2) and (3).

24/ See ibid., article 15 (1).

25/ See for analogy, ibid., articles 17 and 24 (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. 26/

Article 24

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

Article 25

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

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

3. In the event of continued disagreement between the international ocean space institutions and the coastal State the matter shall be submitted to the International Maritime Court for binding adjudication.

Article 26

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

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

26/ See for analogy, ibid., article 14 (5).

27/ See ibid., article 15 (2).

28/ See for analogy Convention on Fishing and Conservation of the Living Resources of the High Seas (United Nations, Treaty Series, vol. 559, No. 8164), article 12 (2).

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

Article 27

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

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

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

Article 28

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

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

(b) If the crime is of a nature gravely to disturb the peace of the country or the good order of ocean space under its jurisdiction; or

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

(d) If it is essential for the suppression of the slave trade, piracy or the illicit traffic in narcotic drugs.

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

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

4. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall act on probable cause only and shall advise also the consular authority of the flag State and, if the captain so requests, shall advise also the

29/ See Convention on the Territorial Sea and the Contiguous Zone, article 18.

30/ See ibid., article 19 (1), (2) and (4).

international ocean space institutions before taking any steps. The authorities of the coastal State shall facilitate contact between the consular authority of the flag State or the international ocean space institutions and the vessel's crew. In cases of emergency the notification may be communicated while the measures are being taken. 31/

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

6. Non-compliance with the obligations under paragraph 4 of this article may be brought to the attention of the international ocean space institutions by the State whose flag the vessel flies.

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

Article 29

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

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 30

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

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

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to

31/ See for analogy ibid., article 19 (3).

32/ See ibid., article 19 (5)

arrest for the purpose of any civil proceedings, a foreign vessel lying in waters under its jurisdiction or passing through these waters after leaving internal waters. 33/

Article 31

1. The rules contained in the foregoing articles shall also apply to government vessels operated for commercial purposes.
2. The rules contained in the foregoing articles shall also apply to government vessels operated for non-commercial purposes with the exception of articles 28, 29 and 30.
3. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which government vessels operated for non-commercial purposes enjoy under these articles or other rules of international law. 34/

Article 32

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

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

33/ Ibid., article 20.

34/ See ibid., articles 21 and 22.

35/ See ibid., article 16 (1), (2), and (3).

Article 33

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

Article 34

Foreign warships exercising the right of passage within a belt of ocean space adjacent to the coast of a State not exceeding 12 nautical miles in the breadth measured from the applicable baseline shall not fly their aircraft, practise their weapons, engage in research or intelligence-gathering operations or in activities deemed unfriendly by the coastal State nor shall they exercise the right of passage in such a manner as to impede the navigation of other vessels.

Article 35

1. The coastal State may require a foreign warship which does not comply with the provisions of the foregoing article and disregards any request for compliance to leave national ocean space. 36/
2. Grave or repeated violations of the provisions of these articles and of article 42 relating to the exercise of the right of passage by warships may be brought to the attention of the international ocean space institutions by the coastal State.

Special rules applicable to straits used for international navigation

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. 37/
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.

36/ See for analogy ibid., article 23.

37/ See for analogy ibid., article 16 (4).

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.

Article 38

The coastal State or States may take measures to prevent or suspend passage through straits less than 24 nautical miles wide which are or can be used for international navigation only in case of reasonable fear of grave and imminent threat to its or their security. Such measures shall be notified to the international ocean space institutions, and shall lapse after 30 days unless the consent of the institutions to such measures is obtained.

Article 39

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

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

Article 40

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

2. Nevertheless, when a strait used for international navigation the breadth of which is less than 24 nautical miles (a) requires dredging, the installation and maintenance of aids to navigation or the adoption of other measures to maintain or facilitate safe passage, or (b) when passage of certain types or classes of vessels, in the event of accident, could cause considerable loss of human life or substantial injury to economic activities or to the marine environment in the area, the coastal State or States may request the international ocean space institutions to establish an equitable charge payable without discrimination by all vessels or by all vessels of the relevant class or type, as the case may be, using the strait.

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

4. The charge payable by vessels exercising the right of passage through straits less than 24 nautical miles in breadth shall be determined in special conventions between the international ocean space institutions and the State or States concerned.

Article 41

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

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

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

Article 42

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

(a) comply with the provisions of article 34 of this Convention;

(b) comply with such regulations as may be adopted by the coastal State under article 37 of this Convention;

(c) take strict precautionary measures for the avoidance of accidents to navigation and for the prevention of damage to the marine environment or to offshore installations.

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.

Chapter VII: Overflight

Article 43

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

2. Overflight means the right to fly aircraft over national ocean space for the purpose of traversing it or of landing on vessels passing through national ocean space.

3. Overflight includes landing in national ocean space and low-altitude circling and manoeuvring in so far as the same are incidental to aerial navigation or are rendered necessary by force majeure or by distress.

Article 44

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

Article 45

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

Article 46

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

Article 47

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

Article 48

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

Article 49

1. The coastal State is required to take effective measures conforming to international standards and practice for the safety of aerial navigation over its national ocean space.
2. Failure to comply with the provisions of the foregoing paragraph entails legal responsibility.

Article 50

1. In a belt of ocean space adjacent to its coast not exceeding 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.

2. The coastal State or States may take measures to prevent or suspend overflight over straits less than 24 nautical miles wide which are, or can be, used for international navigation only in case of reasonable fear of grave and imminent threat to its or their security. Measures taken by the coastal State or States shall be notified immediately to the competent international institutions and shall lapse after 30 days unless the consent of the institutions to such measures is obtained.

Article 51

1. Foreign military aircraft exercising the right of overflight over a belt of national ocean space not exceeding 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.
2. The coastal State may require a foreign military aircraft which does not comply with the provisions of the foregoing paragraph, immediately to leave the air space over which it has jurisdiction.

Article 52

1. The coastal State may establish over a belt of national ocean space adjacent to its coast not exceeding 100 nautical miles in breadth precisely delimited zones of 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.
2. Subject to the provisions contained in article 50 (2), nothing in the foregoing paragraph shall affect the exercise of the right of overflight over straits which area can be used for international navigation.

Chapter VIII: Submarine cables 38/

Article 53

Subject to the provisions of these articles, all States, whether coastal or not, shall enjoy the right to lay and to maintain submarine cables on the sea-bed of national ocean space.

Article 54

The coastal State must not hamper the exercise of the right to lay or to maintain submarine cables on the sea-bed of national ocean space beyond 12 nautical miles from the coast when cables are laid in accordance with such general and non-discriminatory regulations as may be adopted by the international ocean space institutions or as are contained in widely ratified multilateral conventions.

Article 55

In the absence of relevant regulations adopted by the international ocean space institutions or contained in widely ratified multilateral conventions, the

38/ See for analogy Convention on Fishing and Conservation of the Living Resources of the High Seas, articles 26-29.

coastal State may enact reasonable and non-discriminatory regulations relating to the laying of submarine cables in national ocean space.

Article 56

1. Coastal State regulations mentioned in the foregoing article may be brought to the attention of the international ocean space institutions by any Contracting Party when these regulations are considered discriminatory or unreasonable or inconsistent with regulations adopted by the institutions or contained in widely ratified multilateral conventions.
2. The international ocean space institutions may recommend that the coastal State rescind or modify regulations which are found to be discriminatory or to constitute an unreasonable impediment to the exercise of the right to lay submarine cables or to be inconsistent with regulations adopted by the institutions.
3. In the event of continued disagreement between the international ocean space institutions and the coastal State, the matter shall be submitted to the International Maritime Court for binding adjudication.

Article 57

1. When laying submarine cables due regard shall be paid to cables already in position on the sea-bed: in particular the possibility of repairing existing cables shall not be prejudiced.
2. Failure to comply with the provisions of the foregoing paragraph entails legal responsibility.

Article 58

1. States and persons under their jurisdiction which own submarine cables in the national ocean space of another State shall transmit to that State and to the international ocean space institutions a chart showing the position of the cables owned.
2. The coastal State has the obligation to protect submarine cables shown on charts transmitted to it.

Article 59

Every State shall take the necessary legislative measures to provide that the breaking or injury by a vessel flying its flag or by a person subject to its jurisdiction of a submarine cable in the national ocean space of another State done wilfully or through culpable negligence shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or vessels, after having taken all necessary precautions to avoid such break or injury.

Article 60

1. Every State shall take the necessary legislative measures to provide that any persons who cause a break in, or injury to, a submarine cable shall bear the cost of repairs.
2. Every State shall take the necessary legislative measures to ensure that owners of vessels who can prove that they sacrificed an anchor, a net or any fishing or other gear to avoid injuring a submarine cable in national ocean space shall be indemnified by the owner of the cable, provided that the owner of the vessel has taken all reasonable precautionary measures beforehand.

Article 61

Failure to take the measures mentioned in articles 58, 59 and 60 may be brought to the attention of the international ocean space institutions by any Contracting Party when interruption or obstruction has been caused to telegraphic or telephonic communications or to the supply of electric energy.

Article 62

1. The laying of submarine cables in a belt of ocean space adjacent to the coast not exceeding 12 nautical miles in breadth measured from the applicable baseline is subject to authorization of the coastal State.
2. The coastal State shall not normally withhold its authorization if the application is submitted by a responsible entity which gives assurance of abiding by the laws and regulations of the coastal State.

Chapter IX: Scientific research 39/

Article 63

1. Subject to the provisions of these articles, all States, whether coastal or not, shall enjoy the right to undertake scientific research in national ocean space.
2. Scientific research means any systematic investigation, whether fundamental or applied, and related experimental work, the primary aim of which is to increase knowledge of the marine environment for peaceful purposes.
3. Scientific research activities shall not form the basis for any claims with regard to the exploitation of the natural resources of national ocean space.

Article 64

The coastal State may require 30 days advance notification of the intention to conduct scientific research in its national ocean space.

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

Article 65

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

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

Article 66

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

Article 67

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

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

3. In the event of continued disagreement between the international ocean space institutions and the coastal State, the matter shall be submitted to the International Maritime Court for binding adjudication.

Article 68

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

Article 69

1. Underwater habitats, installations, equipment or devices for scientific

purposes may not be established on or in the sea-bed of ocean space under the jurisdiction of a coastal State without the latter's consent.

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

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

Article 70

1. Floating installations of whatever nature for scientific purposes joined to the sea-bed may not be established in ocean space under the jurisdiction of a coastal State without the latter's consent.

2. The coastal State has the right to inspect and the obligation to protect floating installations of whatever nature for scientific purposes joined to the sea-bed established with its consent in ocean space under its jurisdiction. The coastal State must ensure that such installations comply with the provisions of article 74 and with such relevant standards and rules as may be adopted by the international ocean space institutions.

3. The coastal State may remove floating installations for scientific purposes joined to the sea-bed established without its consent in ocean space under its jurisdiction and to keep any scientific data found therein.

Article 71

Authorization of the coastal State shall be obtained in respect of scientific research conducted within a belt of ocean space adjacent to the coast not exceeding 12 nautical miles in breadth measures from the applicable baseline.

Article 72

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

(a) when the request together with the research programme is submitted by a person or entity registered with the international ocean space institutions six weeks before the date that it is proposed to initiate the research;

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

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

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

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

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

2. The coastal State may refuse further access for scientific purposes to national ocean space within 12 nautical miles of its coast to persons or entities which do not comply with the obligations assumed by them when obtaining the authorization mentioned in article 71.

Article 73

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

(a) when the request, together with precise information on the character of the proposed research is submitted by a person or entity registered with the international ocean space institutions six weeks before the date that it is proposed to introduce the devices in the sea;

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

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

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

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

2. The coastal State may refuse further access for scientific purposes to national ocean space within 12 nautical miles of its coast to persons or entities which do not comply with the obligations assumed by them when obtaining the authorization mentioned in article 71.

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

Article 74

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

(a) such general and non-discriminatory standards and rules as may be adopted by the international ocean space institutions are observed;

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

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

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

(e) the international ocean space institutions are promptly notified of the location of such habitats, installations or devices and of the breadth of the safety zones which have been established around them;

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

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

Article 75

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

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

Chapter X: Peaceful uses

Article 76

1. No State may utilize the sea-bed of national ocean space of another State for military purposes without the latter's consent.

Article 77

1. Nuclear or thermonuclear weapon test explosions and the emplacement of nuclear weapons or other weapons of mass destruction on the sea-bed are prohibited in national ocean space.

2. The foregoing provision shall not affect the rights of the coastal State under the 1971 Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof.

Article 78

Nuclear and thermonuclear explosions for peaceful purposes in national ocean space are permitted only with the authorization of the international ocean space institutions.

Article 79

Non-compliance with the provisions of the foregoing articles may be brought to the attention of the international ocean space institutions by any Contracting Party.

Chapter XI: Exploitation of natural resources

Article 80

1. The exploration and exploitation of the natural resources of national ocean space shall be conducted with reasonable regard to other uses of national ocean space, in particular navigation, scientific research and the laying and repair of submarine cables and pipelines.

2. The coastal State shall have the obligation to transfer to the international ocean space institutions a portion of the financial benefits received from the exploitation of the natural resources of national ocean space. The institutions shall prepare a special draft convention on this matter for consideration by Contracting Parties.

Chapter XII: Living resources of national ocean space

Article 81

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

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

Article 82

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

2. Conservation programmes shall include:

(a) measures of biological management which may be necessary or desirable to maintain or increase the stock of living resources of national ocean space;

(b) measures of economic management which may be necessary or desirable to maintain fishing effort in national ocean space at levels providing maximum net returns in relation to potential sustained catch;

(c) measures of regulation - including, inter alia, licensing, closed areas, closed seasons, limitations on size and condition of specific living resources which may be caught and limitations on type of gear - designed to render possible the successful implementation of measures of biological and economic management.

3. Programmes of conservation of the living resources of national ocean space shall be given due publicity by the coastal State and shall be communicated to the international ocean space institutions.

Article 83

1. In view of the vital interest of the international community in the maintenance of the productivity of fisheries, the coastal State has the obligation:

(a) to consult with other States in the region and with the international ocean space institutions before undertaking or permitting activities in national ocean space which could substantially reduce the living resources of ocean space outside its jurisdiction;

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

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

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

Article 84

1. The international ocean space institutions, and persons or entities under their sponsorship, may conduct in national ocean space beyond 12 nautical miles from the coast, giving prior notice thereof to the coastal State, investigations for the purpose of obtaining such biological samples and scientific information relating to the living resources of ocean space as may be necessary to formulate rational and effective programmes of conservation.
2. The coastal State shall be offered reasonable opportunity to appoint its nationals to participate in the investigations mentioned in the foregoing paragraph and, in any case, shall be provided with the full data obtained and an interpretation thereof by the international ocean space institutions.
3. The international ocean space institutions have the obligation to assist at its request any State to formulate and to implement appropriate and effective programmes of conservation of the living resources of its national ocean space.

Article 85

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

Article 86

Disagreements between coastal States or between the international ocean space institutions and a coastal State relating to matters contained in articles 83 and 85 shall be submitted to the International Maritime Court for binding adjudication.

Article 87

Every State shall take the necessary legislative measures to provide that violations of programmes of conservation of living resources adopted by the coastal State, or jointly by the coastal State and the international ocean space institutions, by vessels flying its flag or persons subject to its jurisdiction shall be a punishable offence.

Article 88

1. The coastal State may reserve to its nationals the exploitation of some or of all the living resources of its national ocean space.
2. The international ocean space institutions and the coastal State or States concerned shall elaborate and implement in close consultation, if necessary through appropriate regional bodies, non-discriminatory programmes for the

exploitation of such living resources of national ocean space the migratory range of which extends into international ocean space.

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

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

Article 89

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

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

Article 90

1. The coastal State may inspect with due consideration in its national ocean space foreign flag fishing and fish processing vessels.

2. The coastal State may seize a foreign flag fishing or fish processing vessel and its cargo and arrest the persons on board when upon inspection it is found that the vessel has gravely and intentionally violated programmes of conservation of living resources, or when it is found that the vessel had engaged in fishing in national ocean space in contravention of the laws of the coastal State.

3. The coastal State shall promptly inform the consular authorities of the flag State of the offending vessel and, if the captain so requests, the international ocean space institutions, of the measures taken with respect to the vessel, its cargo and crew.

4. The courts of the coastal State shall in the first instance be competent to adjudicate the offences to which reference is made in paragraph 2. The captain and crew of the offending vessel shall have access to legal assistance of their choice and, before trial, shall be subject only to such personal restraint as may be necessary to prevent their departure from the jurisdiction of the competent court of the coastal State. The flag State of the offending vessel shall be promptly informed of the disposition of the case.

5. Appeal from the courts of the coastal State shall lie to the International Maritime Court.

Article 91

Activities of foreign fishing and fish processing vessels within national ocean space as defined in article 11 shall be brought into conformity with the provisions of article 88 within five years of the entry into force of this convention.

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

Article 92

It shall be the responsibility of the coastal State to formulate and implement such programmes of conservation of the mineral and other non-living resources of national ocean space as may appear to be necessary or desirable.

Article 93

1. The coastal State may reserve to its nationals the exploitation of the mineral and other non-living resources of national ocean space.
2. Notwithstanding the provisions of the foregoing paragraph, the coastal State has an obligation to provide adjacent land-locked countries with access to the mineral and other non-living resources of its national ocean space on conditions similar to those applicable to its own nationals.

Article 94

1. The exploitation of the mineral resources of national ocean space by a coastal State must not cause significant change in the natural state of the marine environment of ocean space beyond its jurisdiction or significant interference with navigation, scientific research or the laying and repair of submarine cables and pipelines.
2. The coastal State has the obligation to take special precautions before undertaking or authorizing the exploitation of petroleum and natural gas in areas of national ocean space subject to frequent natural disasters.
3. Non-compliance with the provisions contained in the foregoing paragraph entails legal responsibility and may be brought to the attention of the international ocean space institutions by any Contracting Party.

Article 95

1. If any single geological petroleum or natural gas structure or field or any single geological structure or field of any other mineral deposit extends across the line dividing the national ocean space of two or more coastal States, they shall seek to reach agreement as to the manner in which the structure or field can be most efficiently exploited and the manner in which the costs and proceeds relating thereto shall be apportioned.

2. In the event of disagreement between the coastal States concerned, the matter shall be submitted to arbitration or to the International Maritime Court for an advisory opinion at the request of any of the States concerned.

3. The provisions of the foregoing paragraphs shall apply also to the international ocean space institutions in the event that a petroleum or natural gas structure or field or any single geological field or structure of any other mineral deposit extends across the line dividing national ocean space from international ocean space.

Chapter XIV: Waste disposal and storage 40/

Article 96

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

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

Article 97

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

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

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

4. Radio-active wastes and toxic chemical wastes shall be stored in special clearly delimited sites, the location of which shall be communicated to the international ocean space institutions. No such sites shall be established in areas subject to frequent natural disasters.

Article 98

1. When the failure on the part of the coastal State to take the measures and

40/ This chapter should be read in conjunction with the Malta draft articles on the preservation of the marine environment contained in document A/AC.138/SC.111/L.33.

precautions indicated in the foregoing article causes significant pollution in international ocean space the international ocean space institutions may submit the matter to the International Maritime Court for binding adjudication and determination of damages.

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

Article 99

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

2. Every coastal State has the obligation to co-operate with the international ocean space institutions in the monitoring of the quality of the marine environment.

3. The international ocean space institutions may conduct in national ocean space beyond 12 miles from the coast investigations for the purpose of obtaining scientific data on the quality of the marine environment, giving prior notice thereof to the coastal State. The coastal State shall be offered reasonable opportunity to appoint its nationals to participate in the investigations and, in any case, shall be provided with a summary of the full data obtained and an interpretation thereof by the institutions.

Chapter XV: Submarine pipelines

Article 100

1. No State may utilize the national ocean space of another State for the purpose of laying submarine pipelines without the consent of that State.

2. Notwithstanding the provisions of the foregoing paragraph, the coastal State may not impede the maintenance of submarine pipelines already in position on the sea-bed of its national ocean space.

Article 101

1. Every coastal State may utilize its national ocean space for the purpose of laying submarine pipelines, provided that:

(a) due regard is paid to pipelines already in position on the sea-bed;

(b) the possibility of repairing existing pipelines is not prejudiced;

(c) the pipelines conform to such international standards of construction as may be adopted by the international ocean space institutions;

(d) the pipelines cause no significant interference with other uses of ocean space and in particular with navigation, the exploitation of living resources and the laying and maintenance of submarine cables.

2. Every coastal State has the obligation to take and enforce in its national ocean space strict precautions in the construction, siting and maintenance of submarine pipelines containing petroleum or substances which may cause serious deleterious effects to human health, to the living resources or to the quality of the marine environment. No such pipelines shall be laid in areas subject to frequent natural disasters.

3. Failure on the part of the coastal State to comply with the provisions contained in the foregoing paragraphs of this article entails legal responsibility and the payment of damages in the event of significant deleterious effects on ocean space or its resources outside the jurisdiction of that State.

Article 102

1. States and persons under their jurisdiction which own or administer submarine pipelines in the national ocean space of another State shall transmit to that State and to the international ocean space institutions a chart showing the position of the submarine pipelines owned or administered by them.

2. The coastal State has the obligation to protect submarine pipelines shown on the charts transmitted to it.

Article 103

Every State shall take the necessary legislative measures to provide that the breaking or injury by a vessel flying its flag or by a person subject to its jurisdiction of a submarine pipeline in the national ocean space of another State done wilfully or through culpable negligence shall be a serious punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or vessels after having taken all necessary precautions to avoid such break or injury.

Article 104

1. Every State shall take the necessary legislative measures to provide that any persons who cause a break in, or injury to, a submarine pipeline shall bear the cost of repairs and shall be responsible for the payment of damages in the event that deleterious effects have been caused to the quality of the marine environment or to the living resources therein.

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

Article 105

Failure to take the precautions and measures mentioned in articles 101 and 102 may be brought to the attention of the international ocean space institutions by any Contracting Party when interruption has been caused to the flow of petroleum, water, gas or other substance contained in the pipeline.

Chapter XVI: Other non-extractive uses

Other uses of national ocean space may conveniently be classified as:

- (a) uses of the subsoil of the sea-bed;
- (b) uses of the surface of the sea-bed;
- (c) uses of the water column;
- (d) uses of the surface of the sea.

These latter in turn may involve man-made islands - that is, islands created by man from natural materials, dredged or otherwise transported, to form an area of land surrounded by water which is above water at high tide - surface installations, systems and devices permanently joined to the sea-bed created from man-made materials, floating installations, systems and devices joined to the sea-bed but which can be moved, floating installations and systems which are dynamically positioned and floating systems and devices which are neither joined to the sea-bed nor dynamically positioned.

From the point of view of jurisdictional areas, man-made islands, offshore installations, systems and devices may be located in national ocean space (including a belt of ocean space adjacent to the coast not more than 12 nautical miles in breadth) or in international ocean space.

From the point of view of activities, man-made islands, offshore installations, systems and devices (whether installed on the surface of the sea, in the water column or on or under the sea-bed) may be used for some or all of the following purposes:

- (a) military purposes;
- (b) scientific purposes;
- (c) industrial purposes;
- (d) mineral extractive purposes, including extraction of minerals from sea water;
- (e) international communications purposes (off-shore harbours, airports, telecommunications, etc.);
- (f) international community purposes (monitoring marine environment for pollution; aids to navigation, etc.);

- (g) energy production purposes, including nuclear energy production;
- (h) other purposes.

In view of the multiplicity of purposes for which man-made islands, offshore installations, systems and devices can be used, it would appear desirable to clarify the present state of technology, the practical purposes for which such islands, installations and devices may be used, and the implications of such uses for international order in ocean space, for navigation, fisheries and other activities before suggesting detailed regulations with regard to safety zones, jurisdictional questions, standards, harmonization with other activities of vital international interest, etc.

18

Greece: draft article under item 19, Régime of islands*

1. An island is a naturally formed area of land surrounded by water which is above water at high tide.
2. An island forms an integral part of the territory of the State to which it belongs. The territorial sovereignty over the island extends to its territorial waters, to the air space over the island and its territorial sea to its bed and subsoil and to its continental shelf for the purpose of exploring it and exploiting its natural resources.
3. The territorial sea of the island is determined in accordance with the same provisions applicable for the measurements of the territorial sea of the continental part of the territory of the State.
4. The provisions applicable for the determination of the continental shelf and the zones of national jurisdiction of the continental part of the State are as a general rule applicable to islands.
5. The above provisions do not prejudice the régime of archipelagic islands.

19

Italy: draft article on straits**

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

(b) The freedom of transit shall be so exercised as to avoid (all unnecessary)

* Originally issued as document A/AC.138/SC.II/L.29 and Corr.1.

** Originally issued as document A/AC.138/SC.II/L.30 and Corr.1.

obstruction of traffic. The coastal States may designate appropriate channels and corridors to be used by transit traffic passing through and over the straits. 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.

20

Tunisia and Turkey: amendment to proposal No. 7*

In the draft article proposed by Cyprus (proposal No. 7 above) delete the words "or insular,".

21

Tunisia and Turkey: amendment to proposal No. 5**

In the amendment proposed by Greece (proposal No. 5 above) to the draft article submitted by Turkey (proposal No. 4 above), delete the words "or insular,".

22

Tunisia and Turkey: amendment to proposal No. 9***

In draft article 13 of the text proposed by Colombia, Mexico and Venezuela, delete subparagraph (b).

23

Working paper submitted by the Chinese delegation: sea area
within the limits of national jurisdiction****

1. Territorial sea

(1) The territorial sea, as delimited by a coastal State by virtue of sovereignty,

* Originally issued as document A/AC.138/SC.II/L.31.

** Originally issued as document A/AC.138/SC.II/L.32.

*** Originally issued as document A/AC.138/SC.II/L.33.

**** Originally issued as document A/AC.138/SC.II/L.34.

is a specified area of sea adjacent to its coast or internal waters, including the air space over the territorial sea and its bed and subsoil thereof, over which it exercises sovereignty.

(2) A coastal State is entitled to reasonably define the breadth and limits of its territorial sea according to its geographical features and its needs of economic development and national security and having due regard to the legitimate interests of its neighbouring countries and the convenience of international navigation, and shall give publicity thereto.

(3) 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.

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

(5) The breadth and limits of the territorial sea as defined by a coastal State are, in principle, applicable to the islands belonging to that State.

(6) 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.

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

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

Foreign non-military ships enjoy innocent passage through territorial seas.

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

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.

2. Exclusive economic zone or exclusive fishery zone

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

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

(2) All natural resources within the economic zone of a coastal State, including living and non-living resources of the whole water column, sea-bed and its subsoil, are owned by the coastal State.

A coastal State exercises exclusive jurisdiction over its economic zone for the purpose of protecting, using, exploring and exploiting the resources as described in the preceding paragraph.

(3) A coastal State shall, in principle, grant to the land-locked and shelf-locked States adjacent to its territory common enjoyment of a certain proportion of the rights of ownership in its economic zone. The coastal State and its adjacent land-locked and shelf-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters.

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

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

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

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

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

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

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

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

3. Continental shelf

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

(2) The natural resources of the continental shelf, including the mineral resources of the sea-bed and subsoil and the living resources of sedentary species, appertain to the coastal State.

(3) The superjacent waters of the continental shelf beyond the territorial sea, the economic zone or the fishery zone are not subject to the jurisdiction of the coastal State.

The normal navigation and overflight on the superjacent waters of the continental shelf and in the air space thereabove by ships and aircraft of all States shall not be prejudiced.

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

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.

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

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

United States of America: draft articles for a chapter on the rights
and duties of States in the coastal sea-bed economic area */**/

Article 1

1. The coastal State shall have the exclusive right to explore and exploit and authorize the exploration and exploitation of the natural resources of the sea-bed and subsoil in accordance with its own laws and regulations in the coastal sea-bed economic area.

2. The coastal sea-bed economic area is the area of the sea-bed which is

(a) seaward of _____; and

(b) landward of an outer boundary of _____.

3. The coastal State shall in addition have the exclusive right to authorize and regulate in the coastal sea-bed economic area of the superjacent waters:

(a) the construction, operation and use of off-shore installations affecting its economic interests, and

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

4. The coastal State may, where necessary, establish reasonable safety zones around such offshore installations in which it may take appropriate measures to protect persons, property, and the marine environment. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function of the installation. The breadth of the safety zone shall be determined by the coastal State and shall conform to international standards in existence or to be established pursuant to article 3.

5. (a) For the purposes of this chapter, the term "installations" refers to all off-shore facilities, installations, or devices other than those which are mobile in their normal mode of operation at sea.

(b) Installations do not possess the status of islands. They have no territorial sea or coastal sea-bed economic area of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

6. The coastal State may, with respect to the activities set forth in this

*/ This chapter deals with sea-bed resources, and does not deal with fisheries. The proposal of the United States with respect to fisheries beyond the territorial sea was introduced in Sub-Committee II on 4 August 1972 in document A/AC.138/SC.II/SR.40 (see Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721)).

**/ Originally issued as document A/AC.138/SC.II/L.35 and Corr.1.

article, apply standards for the protection of the marine environment higher than those required by applicable international standards pursuant to article 2.

7. The coastal State may, with respect to the activities set forth in this article, take all necessary measures to ensure compliance with its laws and regulations subject to the provisions of this chapter.

Article 2

The coastal State, in exercising the rights referred to in article 1, shall ensure that its laws and regulations, and any other actions it takes pursuant thereto in the coastal sea-bed economic area, are in strict conformity with the provisions of this chapter and other applicable provisions of this Convention, and in particular:

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

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

(c) the coastal State shall not impede, and shall co-operate with the authority in the exercise of its inspection functions in connexion with subparagraph (b) above.

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

(e) the coastal State shall make available in accordance with the provisions of article _____, such share of revenues in respect of mineral resource exploitation from such part of the coastal sea-bed economic area as is specified in that article.

Article 3

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

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

(a) regarding the breadth, if any, of safety zones around off-shore installations;

(b) regarding navigation outside the safety zones, but in the vicinity of off-shore installations.

Article 4*

Nothing in this chapter shall affect the rights of freedom of navigation and overflight and other rights to carry on activities unrelated to sea-bed resource exploration and exploitation in accordance with general principles of international law, except as otherwise specifically provided in this convention.

Article 5

1. Any dispute between two or more Contracting Parties with respect to the interpretation or application of this chapter shall, if requested by any party to the dispute, be resolved by the compulsory dispute settlement procedure contained in article _____, of chapter _____.

2. In the case of a dispute involving a violation of article 2 (d) of this chapter, if the Contracting Party of which a natural or juridical person is a national has not brought a complaint under paragraph 1 of this article, such person may submit the dispute for settlement in accordance with the 1962 Rules of Arbitration and Conciliation for Settlement of International Disputes Between Two Parties of Which Only One Is a State, adopted by the Permanent Court of Arbitration.

25

Working paper submitted by the delegations of Australia and Norway containing certain basic principles on an economic zone and on delimitation**

1. Economic zone

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

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

** Originally issued as document A/AC.138/SC.II/L.36.

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

(c) The coastal State has the right to determine the outer limit of the (economic zone - patrimonial sea) up to a maximum distance of 200 nautical miles from the applicable baselines for measuring the territorial sea. However, the coastal State has the right to retain, where 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 to not extend beyond the outer edge of the continental margin.

(d) In the (economic zone - patrimonial sea) ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight.

2. Delimitation

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

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

(c) No State shall by reason of this Convention claim or exercise rights over the natural resources of any area of the sea-bed and subsoil over which another State had under international law immediately before the coming into force of this Convention sovereign rights for the purposes of exploring it or exploiting its natural resources.

(d) Subject to principles (a), (b) and (c) above, and unless the drawing up of another boundary is justified by special circumstances, the boundary shall be an equidistant line in the case of adjacent coasts and a median line in the case of opposite coasts.

26

Argentina: draft articles*

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

2. It is for each State to fix the breadth of its territorial sea up to a maximum distance of 12 nautical miles measured from the applicable baselines.

* Originally issued as document A/AC.138/SC.II/L.37 and Corr.1.

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

3.1 ... (definition of "innocent passage").

3.2 ... (precise determination of the regulatory powers of the coastal State).

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

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

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

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

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

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

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

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

9. The prospecting and exploration of the maritime area adjacent to the territorial sea and the exploitation of the natural resources existing therein are subject to the regulations of the coastal States concerned, which may reserve those activities to themselves or to their nationals or may allow third parties to engage in them in accordance with the provisions of their internal laws and of such international agreements as they may conclude on the matter.

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

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

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

13. In the maritime area adjacent to the territorial sea, ships and aircraft of all States, whether coastal or not, have the right to free navigation and overflight without restrictions other than those which may result from the exercise by the coastal State of its rights in the matters of exploration, conservation and exploitation of resources, pollution and scientific research. Subject solely to these limitations, there shall also be freedom to lay submarine cables and pipelines.

14. Through bilateral and, where appropriate, subregional agreements, a coastal State shall facilitate for neighbouring States having no sea-coast the right of access to the sea and of transit. In the same way agreement shall be reached with States having no sea-coast on an equitable régime for the exercise in the maritime area of fishing rights which shall be preferential in relation to third States. The said preferential rights shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State.

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

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

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

18. A coastal State has sovereignty over the renewable and non-renewable natural resources of its continental shelf. The said resources include the mineral and other non-living resources of the sea-bed and subsoil together with living vegetable organisms and animals belonging to sedentary species, that is to say, animals

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.

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

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

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

22. It is likewise for the coastal State to authorize scientific research activities on the continental shelf; it is entitled to participate in them and to receive 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.

23. A coastal State shall authorize the laying of submarine cables and pipelines on the continental shelf, without restrictions other than those which may result from its rights over the same.

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

25. The coastal State is entitled to construct, maintain or operate on or over the continental shelf installations and other devices necessary for the exercise of its rights over the same, to establish safety zones around such devices and installations, and to take in those zones measures necessary for their protection. Ships of all nationalities shall respect these safety zones, which may extend up to 500 metres around the installations or devices.

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

27. The exercise of the coastal State's rights over the continental shelf shall not result in any unjustifiable interference with the freedom of navigation in the superjacent waters and of overflight in the superjacent air space, nor shall it impede the use of recognized lanes essential to international navigation.

28. Delimitation.

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

Canada, India, Kenya and Sri Lanka: draft articles on fisheries*

- Note:
1. The substance of this proposal is complementary to the concept of the exclusive economic zone and should be considered as a part thereof.
 2. The proposal is presented to promote discussion on the subject around a concrete text and does not necessarily reflect the final views of the sponsoring delegations.

Article 1

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

Article 2

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

Article 3

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

Article 4

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

- (a) Licensing of fishing vessels and equipment, including payment of fees and other forms of remuneration;
- (b) Limiting the number of vessels and the number of gear that may be used;

* Originally issued as document A/AC.138/SC.II/L.38.

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

- (c) Specifying the gear permitted to be used;
- (d) Fixing the periods during which the prescribed species may be caught;
- (e) Fixing the age and size of fish that may be caught;
- (f) Fixing the quota of catch, whether in relation to particular species of fish or to catch per vessel over a period of time or to the total catch of nationals of one State during a prescribed period.

Article 5

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

Article 6

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

Article 7

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

Article 8

A coastal State has a special interest in the maintenance of the productivity of the living resources of the area of the sea adjacent to the exclusive fishery zone, and may take appropriate measures to protect this interest. A coastal State shall enjoy preferential rights to the resources of this area and may reserve for its nationals a portion of the allowable catch of these resources corresponding to its harvesting capacity.

Article 9

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

Article 10

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

Article 11

(On anadromous species)

Article 12

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

Article 13

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

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

Article 14

(Final clauses, etc.)

Afghanistan, Austria, Belgium, Bolivia, Nepal and Singapore:
draft articles on resource jurisdiction of coastal States
beyond the territorial sea*

- (1) In the context of the discussions on the recognition of the jurisdiction of coastal States over the resources in a zone adjacent to their territorial sea, and
- (2) As a formula attempting to accommodate the vital needs and major interests of all States, which does not necessarily reflect the final views of the sponsoring delegations.

Article I

1. Coastal States shall have the right to establish, adjacent to the territorial sea, a ... zone which may not extend beyond ... nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. Coastal States shall have, subject to the provisions of articles II and III, jurisdiction over the ... zone and the right to explore and exploit all living and non-living resources therein.

Article II

1. Land-locked and coastal States which cannot or do not declare a ... zone pursuant to article I (hereinafter referred to as the "disadvantaged States"), as well as natural or juridical persons under their control, shall have the right to participate in the exploration and exploitation of the living resources of the ... zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational management and exploitation of the living resources of particular ... zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that zone.

2. In the ... zone the coastal State may annually reserve for itself and such other disadvantaged States as may be exercising the right under the preceding paragraph, that part of the maximum allowable yield, as determined by the relevant international fisheries organization, which corresponds to the harvesting capacity and needs of these States.

3. States other than those referred to in paragraph 1 shall have the right to exploit that part of the remaining allowable yield subject to payments, to be determined under equitable conditions, and regulations laid down by the coastal States for the exploitation of the living resources of the ... zone.

* Originally issued as document A/AC.138/SC.II/L.39.

4. Disadvantaged States shall not transfer the right conferred upon them in paragraph 1 to third parties. However, this provision shall not preclude the disadvantaged States from entering into arrangements with third parties for the purpose of enabling them to develop viable fishing industries of their own.

5. A developed coastal State, which establishes a ... zone pursuant to article I, paragraph 1, shall contribute ... per cent of its revenues a/ derived from the exploitation of the living resources in that zone to the international authority. Such contributions shall be distributed by the international authority on the basis of equitable sharing criteria.

6. In exploiting the living resources the States referred to in paragraphs 1 and 3 of this article shall observe the regulations and measures pertaining to management and conservation in the respective ... zones.

Article III

1. A coastal State shall make contributions to the international authority out of the revenues a/ derived from exploitation of the non-living resources of its ... zone in accordance with the following paragraph.

2. The rate of contribution shall be ... per cent b/ of the revenues from exploitation carried out within 40 miles or 200 metres isobath of the ... zone, whichever limit the coastal State may choose to adopt, and ... per cent b/ of the revenues from exploitation carried out beyond 40 miles or 200 metres isobath within the ... zone.

3. The international authority shall distribute these contributions on the basis of equitable sharing criteria.

Article IV

Any dispute arising from the interpretation and application of the provisions of the foregoing articles shall be subject to the procedures for the compulsory settlement of disputes provided for in the Convention.

a/ The word "revenues" will have to be defined.

b/ It is understood that different rates should apply to developed and developing countries.

Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Senegal, Sierra Leone, Somalia,
Sudan, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone*

Article I

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

Article II

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

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

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

Article III

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

* Originally issued as document A/AC.138/SC.II/L.40 and Corr.1-3.

Article IV

In the economic zone, ships and aircrafts of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight and to lay submarine cables and pipelines with no restrictions other than those resulting from the exercise by the coastal State within the area.

Article V

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

Article VI

The exercise of sovereignty over the resources and jurisdiction over the zone shall encompass all the economic resources of the area, living and non-living, either on the water surface or within the water column, or on the soil or subsoil of the sea-bed and ocean floor below.

Article VII

Without prejudice to the general jurisdictional competence conferred upon the coastal State by article II above, the State may establish special regulations within its economic zone for:

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

Article VIII

Nationals of a developing land-locked State and other geographically disadvantaged States shall enjoy the privilege to fish in the exclusive economic zones of the adjoining neighbouring coastal States. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the land-locked State concerned. The right to prescribe and enforce management measures in the area shall be with the coastal State.

The African States endorse the principle of the right of access to and from the sea by the land-locked countries, and the inclusion of such a provision in the universal treaty to be negotiated at the law of the sea conference.

Article IX

The delineation of the economic zone between adjacent and opposite States shall be carried out in accordance with international law. Disputes arising therefrom shall be settled in conformity with the Charter of the United Nations and any other relevant regional arrangements.

Article X

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

Article XI

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

Article XII

Draft article under article 19, régime of islands

1. Maritime spaces of islands shall be determined according to equitable principles taking into account all relevant factors and circumstances, including inter alia:

(a) The size of islands;

(b) The population or the absence thereof;

(c) Their contiguity to the principal territory;

(d) Whether or not they are situated on the continental shelf of another territory;

(e) Their geological and geomorphological structure and configuration.

2. Island States and the régime of archipelagic States as set out under the present Convention shall not be affected by this article.

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Uganda and Zambia: draft articles on the proposed economic zone*

SECTION I: TERRITORIAL SEA

Article 1

1. The sovereignty of a State extends, beyond its land territory and its

* Originally issued as document A/AC.138/SC.II/L.41.

internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.

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

Article 2

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

Article 3

1. The uniform 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 ... nautical miles.

2. Where the coasts of two States are opposite or adjacent to each other and the distance between them is less than double the uniform breadth provided in this article, the limits of the territorial sea shall, failing agreement between them to the contrary, be the median line every point of which is equidistant from the nearest points or baselines from which the breadth of the territorial sea of each of the two States is measured. The provision of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

SECTION II: ECONOMIC ZONE

Article 4

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

2. Fisheries within the regional or subregional economic zones shall be reserved for the exclusive use, exploration and exploitation by all the States within the relevant region or subregion.

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

4. The regulation and supervision of activities within such regional or subregional economic zones shall be the responsibility of the relevant regional or subregional commissions.

5. The provisions of the preceding paragraphs of this article shall not affect the freedoms of navigation, overflight, and the laying of submarine cables and

pipelines referred to in article ... which shall be applicable in the regional or subregional zones.

INTERNATIONAL AREA

The area beyond regional or subregional economic zones shall be known as the international area.

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Fiji: draft articles relating to passage through the territorial sea*

Explanatory Note

The question of passage through the territorial sea (item 2.4 of the list of subjects and issues relating to the law of the sea) has to date been considered to be unsatisfactorily determined. Dissatisfaction with the existing rules stems largely from the subjective nature of the tests to be applied under the 1958 Convention on the Territorial Sea and the Contiguous Zone for the determination of the innocence or otherwise of passage.

The intention of this document is to contribute to the work of the Committee by submitting draft articles relating to this item with a view to establishing general rules of a more objective nature than those at present existing.

Whilst the draft articles seek to retain the traditional concept of "innocent passage", they seek also to improve upon the existing definition of "passage" and to include in that term actions taken by a passing ship to render assistance to persons or ships in danger or distress. The innocence of passage is still to be determined by relation to the peace, good order and security of the coastal State, but an objective test is sought to be applied in determining what acts are in fact considered to be prejudicial to the peace, good order and security of the coastal State.

Provision is made in the draft articles for a coastal State to be empowered to designate sea lanes and traffic separation schemes for the passage through its waters of ships having special characteristics. These are defined to include submarines and other underwater vehicles, tankers and other ships carrying nuclear or other inherently dangerous or noxious substances, and marine research and hydrographic survey ships. The designation of such sea lanes is left to the discretion of the coastal State, although in the exercise of that discretion the coastal State is required to take into account such matters as the recommendations of competent international organizations; channels customarily used for international navigation; the special characteristics of particular channels; and the special characteristics of particular ships. Greater flexibility is sought in relation to the passage by submarines which are to be permitted to pass submerged provided that they give prior notification of their passage and confine their passage to sea lanes designated by the coastal State.

* Originally issued as document A/AC.138/SC.II/L.42 and Corr.1.

The rules relating to government ships are sought to be made clearer by the specific application of the latter of the general rules relating to innocent passage and the making of the flag State liable for any damage done in the coastal State by any warship or any other non-commercial government ship as a result of its non-compliance with any of the laws or regulations of the coastal State. Provision relating to passage through the territorial sea is also sought to be made for the suspension of the right of passage of any warship that persists in non-compliance with these rules and regulations.

The draft articles are not intended to stand alone but to be fitted at an appropriate place into a more comprehensive convention relating to the territorial sea. In consequence no attempt has been made to cover such matters as archipelagic waters to which special consideration may be required to be given. These are intended to provide merely the general framework relating to passage into which those special circumstances may be fitted, with such modifications to these general rules as may be appropriate to meet the special requirements of each such case.

SECTION I. RULES APPLICABLE TO ALL SHIPS

Subsection A. Right of innocent passage

Article 1

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

Article 2

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

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

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

Article 3

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

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State, if in the territorial sea it engages in any of the following activities:

- (a) any warlike act against the coastal or any other State;
- (b) any exercise or practice with offensive weapons of any kind;
- (c) the launching or taking on board of any aircraft;
- (d) the launching, landing or taking on board of any warlike device;
- (e) the embarking or disembarking of any person;
- (f) any act of espionage affecting the defence or security of the coastal State;
- (g) any act of propaganda affecting the security of the coastal State;
- (h) any act of interference with any systems of communication of the coastal State;
- (i) any act of interference with any other facility or installation of the coastal State;
- (j) any other activity not having a direct bearing on passage.

3. The provisions of paragraph 2 of this article shall not apply to any activities carried out with the prior authorization of the coastal State or as are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons or vessels in danger or distress.

4. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea and, in particular, it shall not, in the application of these articles or of any laws or regulations made under the provisions of these articles, discriminate against the ships of any particular State or against ships carrying cargoes to, from or on behalf of any particular State.

5. The coastal State is required to give appropriate publicity to any obstacles or dangers to navigation, of which it has knowledge, within the territorial sea.

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

7. In the case of ships proceeding to any port in the coastal State, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to such port is subject.

Article 4

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

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

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

Subsection B. Regulation of passage

Article 5

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

(a) the safety of navigation and the regulation of marine traffic;

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

(c) the prevention of destruction or damage to facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil, of the territorial sea;

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

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

(f) research of the marine environment;

(g) prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary regulations of the coastal State.

2. The coastal State shall give due publicity to all laws and regulations made under the provisions of this article.

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

Subsection C. Ships having special characteristics

Article 6

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

(a) have given prior notification of their passage to the coastal State;
and

(b) if so required by the coastal State, confine their passage to such sea lanes as may be designated for that purpose by the coastal State.

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

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

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

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

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

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

8. In the designation of sea lanes and the prescription of traffic separation schemes under the provisions of this article a coastal State shall take into account:

(a) The recommendations of competent international organizations;

(b) Any channels customarily used for international navigation;

(c) The special characteristics of particular channels; and

(d) The special characteristics of particular ships.

9. The coastal State shall clearly demarcate all sea lanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

10. In order to expedite the passage of ships through the territorial sea the coastal State shall ensure that the procedures for notification under the provisions of this article shall be such as not to cause any undue delay.

SECTION II. RULES APPLICABLE TO MERCHANT SHIPS

Article 7

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

Article 8

1. The criminal jurisdiction of the coastal State shall not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:
 - (a) if the consequences of the crime extend to the coastal State; or
 - (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or
 - (c) if the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or
 - (d) if it is necessary for the suppression of illicit traffic in narcotic drugs.
2. The provisions of paragraph 1 of this article do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving any port in the coastal State.
3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.
4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.
5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering any port in the coastal State.

Article 9

1. The coastal State shall not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.
2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its passage through the waters of the coastal State.
3. The provisions of paragraph 2 of this article are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving any port in the coastal State.

SECTION III. RULES APPLICABLE TO GOVERNMENT SHIPS

Subsection A. Government ships other than warships

Article 10

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

Article 11

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

Subsection B. Warships

Article 12

1. For the purposes of this article, the term "warship" means a ship belonging to the naval forces of a State bearing the external marks distinguishing naval vessels of its nationality, under the command of an officer duly commissioned by the Government of that State and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.
2. The rules contained in section I of these articles shall apply to warships.

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

(a) carry out any manoeuvres other than those having direct bearing on passage; or

(b) undertake any hydrographical survey work or any marine research activities.

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

Article 13

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

Subsection C. Liability of government ships

Article 14

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

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Cameroon, Kenya, Madagascar, Tunisia and Turkey: draft article under article 19, régime of islands*

1. Maritime spaces of islands shall be determined according to equitable principles, taking into account all relevant factors and circumstances including, inter alia:

(a) The size of islands;

* Originally issued as document A/AC.138/SC.II/L.43.

- (b) The population or the absence thereof;
 - (c) Their contiguity to the principal territory;
 - (d) Whether or not they are situated on the continental shelf of another territory;
 - (e) Their geological and geomorphological structure and configuration.
2. Island States and the régime of archipelagic States as set out under the present Convention shall not be affected by this article.

33

United Kingdom of Great Britain and Northern Ireland: draft article
on the rights and duties of archipelagic States*

Introductory Note

1. The United Kingdom delegation has stated that any new law of the sea convention must take proper account of, and make provision for, the legitimate concerns of archipelagic States. At the same time, it has emphasized that principles stated in general terms are not enough to resolve this problem, and that such principles must be enunciated in the form of objective criteria.
2. The draft article which follows is an attempt to establish objective criteria and to elaborate the legal status of the States concerned. It is submitted as a basis for discussion and negotiation, and does not necessarily represent the final position of the United Kingdom Government in the matter.

Draft article on the rights and obligations of archipelagic States

1. On ratifying or acceding to this Convention, a State may declare itself to be an archipelagic State where:
- (a) the land territory of the State is entirely composed of three or more islands; and
 - (b) it is possible to draw a perimeter, made up of a series of lines or straight baselines, around the outermost points of the outermost islands in such a way that:
 - (i) no territory belonging to another State lies within the perimeter,
 - (ii) no baseline is longer than 48 nautical miles, and
 - (iii) the ratio of the area of the sea to the area of land territory inside the perimeter does not exceed five to one

* Originally issued as document A/AC.138/SC.II/L.44.

provided that any straight baseline between two points on the same island shall be drawn in conformity with articles ... of the Convention (on straight baselines).

2. A declaration under paragraph 1 above shall be accompanied by a chart showing the perimeter and a statement certifying the length of each baseline and the ratio of land to sea within the perimeter.

3. Where it is possible to include within a perimeter drawn in conformity with paragraph 1 above only some of the islands belonging to a State, a declaration may be made in respect of those islands. The provisions of this Convention shall apply to the remaining islands in the same way as they apply to the islands of a State which is not an archipelagic State and references in this article to an archipelagic State shall be construed accordingly.

4. The territorial sea economic zone and any continental shelf of an archipelagic State shall extend from the outside of the perimeter in conformity with articles ... of this Convention.

5. The sovereignty of an archipelagic State extends to the waters inside the perimeter, described as archipelagic waters: this sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

6. An archipelagic State may draw baselines in conformity with articles ... (bays) and ... (river mouths) of this Convention for the purpose of delimiting internal waters.

7. Where parts of archipelagic waters have before the date of ratification of this Convention been used as routes for international navigation between one part of the high seas and another part of the high seas or the territorial sea of another State, the provisions of articles ... of this Convention apply to those routes (as well as to those parts of the territorial sea of the archipelagic State adjacent thereto) as if they were straits. A declaration made under paragraph 1 of this article shall be accompanied by a list of such waters which indicates all the routes used for international navigation, as well as any traffic separation schemes in force in such waters in conformity with articles ... of this Convention. Such routes may be modified or new routes created only in conformity with articles ... of this Convention.

8. Within archipelagic waters, other than those referred to in paragraph 7 above, the provisions of articles ... (innocent passage) apply.

9. In this article, references to an island include a part of an island and reference to the territory of a State includes its territorial sea.

10. The provisions of this article are without prejudice to any rules of this Convention and international law applying to islands forming an archipelago which is not an archipelagic State.

11. The depositary shall notify all States entitled to become a party to this Convention of any declaration made in conformity with this article, including copies of the chart and statement supplied pursuant to paragraph 2 above.

12. Any dispute about the interpretation or application of this article which cannot be settled by negotiations may be submitted by either party to the dispute to the procedures for the compulsory settlement of disputes contained in articles ... of this Convention.

Working paper submitted by the Chinese delegation: general principles for the international sea area*

1. The international sea area denotes all the sea and ocean space beyond the limits of national jurisdiction. The international sea area and its resources are, in principle, jointly owned by the people of all countries.

2. In order to have access to and from the international sea area for trade and other peaceful purposes, land-locked States have the right to pass through the territory, territorial sea and other waters of adjacent coastal States. Coastal States and adjacent land-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters.

3. Uses of the international sea area shall not prejudice the legitimate interests of other States and the common interests of all States.

4. Subject to the provisions of paragraph 3 above, ships and aircraft of all States have the right of navigation and overflight in the international sea area and in the air space thereabove, provided that they fly the flag or show the insignia of the State to which they belong.

5. Subject to the provisions of paragraph 3 above, all States have the right to lay cables and pipelines on the sea-bed of the international sea area.

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

Pending the establishment of a unified international fishery organization, States of a given sea area may set up a regional committee to work out appropriate rules and regulations for the regulation of fishing and the conservation of marine living resources in the international sea area. Fishing vessels of States of other regions may enter the said region for fishing activities provided they comply with the relevant rules and regulations of the region.

7. The exploration, exploitation and all other activities conducted in the sea-bed, ocean floor and their subsoil of the international sea area shall be governed by the international régime and the international machinery to be established.

Philippines: draft article under item 2.2 on historic waters**

Article ...

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

* Originally issued as document A/AC.138/SC.II/L.45.

** Originally issued as document A/AC.138/SC.II/L.46.

Philippines: draft article under item 2.3.2 on
breadth of the territorial sea*

Article ... (Limit of the breadth of the territorial sea)

This article shall not apply to a part of the sea adjacent to the coasts of a State which it acquired by historic right or title.

Philippines: draft article under item 2.3.2 on
breadth of the territorial sea**

Article 1

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

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

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

Fiji, Indonesia, Mauritius and the Philippines:
draft article on archipelagos***

Article I

1. These articles apply only to archipelagic States
2. An archipelagic State is a State constituted wholly or mainly by one or more archipelagos.
3. For the purposes of these articles an archipelago is a group of islands and other natural features which are so closely interrelated that the component islands and other natural features form an intrinsic geographical, economic and political entity or which historically have been regarded as such.

* Originally issued as document A/AC.138/SC.II/L.47

** Originally issued as document A/AC.138/SC.II/L.47/Rev.1

*** Originally issued as document A/AC.138/SC.II/L.48

Article II

1. An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea is to be measured.

2. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

3. Baselines shall not be drawn to and from low-tide elevations unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

4. The system of straight baselines shall not be applied by an archipelagic State in such a manner as to cut off the territorial sea of another State.

5. The archipelagic State shall clearly indicate its straight baselines on charts to which due publicity shall be given.

Article III

1. The waters enclosed by the baselines, which waters are referred to in these articles as archipelagic waters, regardless of their depth or distance from the coast, belong to and are subject to the sovereignty of the archipelagic State to which they appertain.

2. The sovereignty and rights of the archipelagic State extend to the air space over its archipelagic waters as well as to the water column, the sea-bed and subsoil thereof, and to all of the resources contained therein.

Article IV

Subject to the provisions of article V, innocent passage of foreign ships shall exist through archipelagic waters.

Article V

1. An archipelagic State may designate sea lanes suitable for the safe and expeditious passage of ships through its archipelagic waters and may restrict the innocent passage by foreign ships through those waters to those sea lanes.

2. An archipelagic State may, from time to time, after giving due publicity thereto, substitute other sea lanes for any sea lanes previously designated by it under the provisions of this article.

3. An archipelagic State which designates sea lanes under the provisions of this article may also prescribe traffic separation schemes for the passage of foreign ships through those sea lanes.

4. In the prescription of traffic separation schemes under the provisions of this article, an archipelagic State shall, inter alia, take into consideration:

- (a) the recommendation or technical advice of competent international organizations;
- (b) any channels customarily used for international navigation;
- (c) the special characteristics of particular channels, and
- (d) the special characteristics of particular ships or their cargoes.

5. An archipelagic State may make laws and regulations, not inconsistent with the provisions of these articles and having regard to other applicable rules of international law, relating to passage through sea lanes and traffic separation schemes as designated by the archipelagic State under the provisions of this article, which laws and regulations may be in respect of, inter alia, the following:

- (a) the safety of navigation and the regulation of marine traffic, including ships with special characteristics;
- (b) the utilization of, and the prevention of destruction or damage to, facilities and systems of aids to navigation;
- (c) the prevention of destruction or damage to facilities or installations for the exploration and exploitation of the marine resources, including the resources of the water column, the sea-bed and subsoil;
- (d) the prevention of destruction or damage to submarine or aerial cables and pipelines;
- (e) the preservation of the environment of the archipelagic State and the prevention of pollution thereto;
- (f) research of marine environment;
- (g) the prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary regulations of the archipelagic State;
- (h) the preservation of the peace, good order and security of the archipelagic State.

6. The archipelagic State shall give due publicity to all laws and regulations made under the provisions of paragraph 5 of this article.

7. Foreign ships exercising innocent passage through those sea lanes shall comply with all laws and regulations made under the provisions of this article.

8. If any warship does not comply with the laws and regulations of the archipelagic State concerning passage through any sea lane designated by the archipelagic State under the provisions of this article and disregards any request for compliance which is made to it, the archipelagic State may suspend the passage of such warship and require it to leave the archipelagic waters by such route as

may be designated by the archipelagic State. In addition to such suspension of passage the archipelagic State may prohibit the passage of that warship through the archipelagic waters for such period as may be determined by the archipelagic State.

9. Subject to the provisions of paragraph 8 of this article, an archipelagic State may not suspend the innocent passage of foreign ships through sea lanes designated by it under the provisions of this article, except when essential for the protection of its security, after giving due publicity thereto, and substituting other sea lanes for those through which innocent passage has been suspended.

10. An archipelagic State shall clearly demarcate all sea lanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

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Poland: proposal concerning aspects of
navigation through straits*

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

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Turkey: proposal for a study on islands**

Considering that draft proposals have been tabled regarding islands;

Considering further that it would be useful for the conduct of the Sub-Committee's work to have a scientific study made on islands:

Invites the International Hydrographic Organization to carry out a general study on geomorphological and bathymetric aspects of various islands, including continental, volcanic and coral formations, by means of bathymetric charts, bathymetric cross-sections, standard definitions for nomenclature of ocean bottom features as obtained from geomorphological and hydrographic knowledge and to make its findings available to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, to the United Nations General Assembly at its twenty-eighth session and to the third United Nations conference on the law of the sea.

* Originally issued as document A/AC.138/SC.II/L.49.

** Originally issued as document A/AC.138/SC.II/L.50.

Bulgaria: draft articles on the nature and characteristics of the territorial sea and its breadth*

Article ...

1. The sovereignty of a coastal State extends beyond its land territory and its internal waters to a belt of sea adjacent to its coast described as the territorial sea.
2. The sovereignty of a coastal State extends also to the air space over the territorial sea as well as to its bed and the subsoil thereof.
3. The coastal State exercises this sovereignty subject to the provisions of these articles and to other rules of international law.

Article ...

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

Pakistan: breadth of the territorial sea and boundaries of the exclusive economic zone**

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

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

Romania: working paper on certain specific aspects of the régime of islands in the context of delimitation of the marine spaces between neighbouring States***

1. Islets and small islands, uninhabited and without economic life, which

* Originally issued as document A/AC.138/SC.II/L.51.

** Originally issued as document A/AC.138/SC.II/L.52.

*** Originally issued as document A/AC.138/SC.II/L.53.

are situated on the continental shelf of the coast, do not possess any of the shelf or other marine space of the same nature.

2. Such islands may have waters - of their own or forming part of the territorial sea of the coast - the extent of which shall be determined by agreement, taking into account all the circumstances affecting the maritime area concerned and all relevant geographical, geological and other features. The waters thus determined shall not, in any event, affect marine spaces which belong to the State or to neighbouring States.

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Ecuador, Panama and Peru: draft articles on fisheries in national and international zones in ocean space*

Note: These draft articles supplement the provisions contained in part I (articles 6 and 8) - and part III (articles 19, 20 and 21) of the draft articles for inclusion in a convention on the law of the sea, submitted in proposal No. 16. They incorporate some of the concepts contained in proposals of other delegations concerning fishery régimes.

I. Fisheries in zones of national sovereignty and jurisdiction

Article A

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

Article B

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

Article C

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

(a) obtaining fishing and marine hunting licences and permits through payment of the corresponding fees;

* Originally issued as document A/AC.138/SC.II/L.54.

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

Article D

1. In adopting measures to conserve living resources in the maritime zone subject to its sovereignty and jurisdiction, the coastal State shall endeavour to maintain the productivity of species and avoid harmful effects for the survival of living resources outside the said zone.

2. The coastal State shall, for the foregoing purposes, promote any necessary co-operation with other States and with competent international organizations.

Article E

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

Article F

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

II. Fisheries in international seas

Article G

Fishing and marine hunting activities in the international seas shall be conducted in conformity with the articles of this Convention and with any agreements that are concluded at the world or regional level.

Article H

1. Regulations adopted to regulate fishing and hunting in the international

seas shall ensure the conservation and rational utilization of living resources and the equitable participation of all States in their exploitation, with due regard to the special needs of the developing countries, including those of the land-locked countries.

2. Such regulations shall establish conditions and methods of fishing and hunting which prevent the indiscriminate exploitation of species and avert the danger of their extinction.

Article I

The coastal State shall enjoy preferential rights to exploit living resources in a sector of the sea adjacent to the zone under its sovereignty and jurisdiction, and may reserve to itself or its nationals a part of the permissible catch of such resources.

Article J

With regard to the living resources of an area of the sea situated beyond the limits of the zones of sovereignty and jurisdiction of two or more States, which breed, feed and live by reason of the resources of that area, the States concerned may agree among themselves on appropriate regulations for the exploration, conservation and exploitation of such resources.

Article K

States shall ensure that the vessels of their flag comply with the fishing and hunting regulations applicable in the international seas; and they shall punish those responsible for any breach that may come to their notice.

Article L

Where a State has good reason to believe that vessels of the flag of another State have violated fishing and hunting regulations applicable to the international seas, the former State may request the flag State to take the necessary steps to punish those responsible.

Article M

Any dispute relating to the interpretation or application of articles G to L of this Convention and of any international or regional regulations that may be adopted, or in respect of fishing and hunting activities in the international sea, shall be submitted to the procedures for peaceful settlement provided for in the Convention.

Jamaica: Draft articles on regional facilities for developing
geographically disadvantaged coastal States*

Article 1

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

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

Article 2

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

Article 3

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

Article 4

In the application of articles 1 and 2 to the associated States, self-governing territories and territories under foreign domination the rights thereby conferred shall be so applied as only to confer rights on the inhabitants of such territories for the purpose of their domestic needs.

Article 5

For the purpose of these articles:

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

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

* Originally issued as document A/AC.138/SC.II/L.55.

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

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

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

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Japan: principles on the delimitation of the coastal sea-bed area*

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

2. In cases where the coasts of two or more coastal States are adjacent or opposite to each other, the boundary of the coastal sea-bed areas appertaining to such States shall be determined by agreement in accordance with the principle of equidistance.

3. Nothing herein shall prejudice the existing agreements between the coastal States concerned relating to the delimitation of their respective coastal sea-bed areas.

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Netherlands: proposal concerning an intermediate zone**

Article 1

Limits

The intermediate zone comprises:

(a) In so far as the living resources, with the exception of "highly migratory oceanic fish species", are concerned, the superjacent waters contiguous to the territorial sea (12 miles) up to an outer limit of ... miles;

(b) In so far as the non-living resources are concerned, the sea-bed and subsoil underlying a belt of sea up to 40 miles seaward of the outer limit of the

* Originally issued as document A/AC.138/SC.II/L.56.

** Originally issued as document A/AC.138/SC.II/L.59 and Corr.1.

"continental shelf"* but not exceeding the distance of ... nautical miles measured from the baselines of the territorial sea.

Article 2

Issuing of licenses

All exploration for, and exploitation of, the living or non-living resources of the intermediate zone shall be licensed by the coastal State, subject to the rules and regulations established by the competent international authorities /global, regional and/or subregional authorities/.

Article 3

Limitation of licenses

Coastal States which have been determined to be advantaged, in accordance with the provisions of article 5, may limit the total amount of living or non-living resources which may be extracted from the intermediate zone during a specified period and reserve licenses for the option of such operators as are its own nationals and nationals of disadvantaged States. in proportions to be determined in accordance with the rules and procedures set forth in article 5.

Article 4

Limitation of disposal of a resource

The advantaged coastal State may determine that the whole or part of the living or non-living resources extracted by licensed foreign operators from the intermediate zone during a specified period shall be offered at world market prices for processing or consumption in its territory and in the territories of the disadvantaged States in proportions to be determined in accordance with the rules and procedures set forth in article 5.

Article 5

Determination of advantaged and disadvantaged States

1. The proportions mentioned in articles 3 and 4 shall be determined by the competent international authority in such a manner that the sum total of the "advantages" of States advantaged in the intermediate zone can be shared among the disadvantaged States pro rata of the "disadvantage" of each of them.

* The continental shelf is understood here as the sea-bed and subsoil adjacent to the coast, not exceeding the 200 metres isobath or underlying a belt of sea the breadth of which is 40 nautical miles measured from the baselines of the territorial sea, according to the choice between the two methods of delimitation to be made by the State concerned at the moment of ratification. Such choice shall be final and the method of delimitation shall apply to the whole of the coastline of the State concerned.

The rates of (dis)advantage may be determined in two phases:

(a) The competent international authority shall determine firstly, in accordance with the provisions of paragraph 2 of this article, rates of "(dis)advantage" in terms of surface;

(b) The competent international authority has the power to revise from time to time the rates determined in accordance with (a), with a view to equalize possible gross disproportions among actual benefits accruing to particular States, if such disproportions result from grossly unequal distribution of resources in the respective areas of intermediate zone.

2. For the determination of the rates mentioned under (a) of the preceding paragraph the "advantage" of a given State is the amount of surface (square nautical miles) by which the actual intermediate zone of that State exceeds ... per cent of a theoretical surface "A" and the "disadvantage" of a given State is the amount of surface by which the actual intermediate zone of that State falls short of ... per cent of "A".

"A" in relation to any State is the surface, expressed in square nautical miles, of a theoretical sea-area of a width of ... nautical miles around a theoretical circular island area equal in size to the actual total land area of that State.

Article 6

Negotiations between advantaged and disadvantaged States

1. Any disadvantaged State is entitled to enter into negotiations with any advantaged State, within groups of States to be determined by the competent international authority, in order to determine by agreement its share for the purpose of the application of article 3 or 4.

Notification shall be made to the competent international authority of any such negotiations having been entered into and of any agreement reached. /The competent international authority shall have the power once in 20 years to revise its determination of groups of States/.

2. If agreement is not reached within three years after negotiations have commenced, the competent international authority shall be requested to make recommendations to the Contracting Parties concerned.

If agreement is not reached within one year after such recommendations are made, the determination recommended by the authority shall take effect unless either Party, within 90 days thereafter, brings the matter before the Tribunal.

Article 7

Optional transfer of part of the intermediate zone to the competent international authority

Any geographically advantaged State may decide to transfer a part of its intermediate zone equal to its "advantage" to the competent international authority to be administered by it in accordance with articles 5 and 6.

Article 8

Revenue sharing

Any State which derives revenue from exploitation of the intermediate zone shall make available ... per cent of these revenues to the competent international authority.

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Zaire: draft articles on fishing*

Article 1

Neighbouring developing States shall grant one another preferential treatment in their respective economic zones with regard to the exploitation of living resources. The procedure for the exercise of such rights shall be settled by arrangement between the States concerned.

The benefit of the preferential treatment provided for in the first paragraph shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States.

The conservation and management of the resources of the entire economic zone shall lie within the competence and authority of the coastal State.

Article 2

Land-locked States and geographically disadvantaged States shall have the right to participate, on a footing of equality and without discrimination, in the exploitation of the living resources of the economic zones of neighbouring coastal States.

The detailed procedure for the exercise of such a right may be determined on a bilateral or regional basis in suitable arrangements.

The benefit of that right shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States and for their sole account.

Article 3

Neighbouring developing coastal States in the same region shall recognize traditional fishing rights belonging to one another and acquired before the establishment of the exclusive economic zone under this Convention, on the same terms as before the entry into force of this Convention and without prejudice to the regulations of the coastal State concerning the conservation, utilization and management of resources.

* Originally issued as document A/AC.138/SC.II/L.60.

Article 4

No State exercising colonial or similar domination may take advantage of the provisions of the foregoing articles to act in place of another country situated outside its national territory.

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Iran: Draft article 15, Regional arrangements*

Article ...

1. States of a region or subregion may, in order to co-ordinate matters relating to the legal, economic and technical aspects of the law of the sea in their region or subregion, conclude appropriate arrangements between themselves.
2. These arrangements will take into account:
 - (a) the legitimate interests of the States concerned;
 - (b) the orderly development of the renewable resources of the sea under their jurisdiction.

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Yugoslavia: Draft article 15, Regional arrangements**

Article ...

1. The States of a region or subregion may, subject to the general provisions of this Convention, on the basis of equality and mutual respect, promote consultations and negotiate such forms of co-operation as they consider most appropriate with respect to all maritime matters, including those relating to legal, geographical, economic and ecological aspects, as well as to scientific research and the transfer of technology.
2. These arrangements should take into account (a) the legitimate interests of all States concerned, as well as (b) the orderly development and rational management of resources of the ... zone.

* Originally issued as document A/AC.138/SC.II/L.62.

** Originally issued as document A/AC.138/SC.II/L.63.

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