

United Nations Conference on the Law of the Sea

Geneva, Switzerland
24 February to 27 April 1958

Documents:

A/CONF.13/C.1/L.3-L.35

Annexes

Extract from the *Official Records of the United Nations Conference on the Law of The Sea, Volume III (First Committee (Territorial Sea and Contiguous Zone))*

DOCUMENT A/CONF.13/C.1/L.3**Burma: proposal***[Original text : English]***Article 10***[10 March 1958]*

To the end of the first sentence of article 10 add the following : "... provided that when an island belonging to one State is within the territorial sea of another State, that island shall not have its own territorial sea."

DOCUMENT A/CONF.13/C.1/L.4**Sweden: proposal***[Original text : English and French]***Article 3***[10 March 1958]*

The article to read as follows :

"The breadth of the territorial sea shall be fixed by the coastal State, but may not exceed six nautical miles."

DOCUMENT A/CONF.13/C.1/L.6**France: proposal***[Original text : French]**[14 March 1958]***Article 2**

After the words "air space", insert the words "as defined in international law".

Article 17**ADDITIONAL PARAGRAPH**

After paragraph 2, insert a new paragraph 3, as follows :
 "3. The measures which can be taken by the coastal State under paragraphs 1 and 2 above should include checking the radio-activity emitted by a nuclear-powered ship, including checking on board of the crew and of any materials that may leave the ship, from the time of its entry into territorial waters when the ship is bound for a port of the said State."

The present paragraphs 3 and 4 to be re-numbered 4 and 5 respectively.

Article 4

Replace the present text by the following text :

"Subject to the provisions of article 5 and to the provisions regarding bays and islands, the breadth of the territorial sea is measured from the low-water line or isobath zero with reference to the datum sounding line adopted for the nautical charts published, or officially adopted, by the coastal State."

Article 14**PARAGRAPH 1**

Re-word this paragraph as follows :

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

Article 15**PARAGRAPH 3**

After the words "committing any acts", insert the words "... , whether premeditated or not, ..."

PARAGRAPH 5

After the words "on the surface", add the words "and showing their flag".

Article 20**PARAGRAPH 2**

After the words "on board a foreign ship lying in its territorial sea", insert the words "... , and hence not enjoying the legal status of a ship passing through that sea."

Article 21**PARAGRAPH 2**

Re-word as follows :

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

DOCUMENT A/CONF.13/C.1/L.7/Rev.1***Argentina: proposal**

[Original text : Spanish]
[31 March 1958]

Article 9

Replace by the following text :

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

* This proposal supersedes document A/CONF.13/C.1/L.7 of 19 March 1958, which contained two other amendments relating to articles 7 and 13 now withdrawn by their sponsor

DOCUMENT A/CONF.13/C.1/L.15**Yugoslavia: proposal**

[Original text : French]
[21 March 1958]

Article 15**PARAGRAPH 4**

The present paragraph 4 to precede the present paragraph 3.

PARAGRAPH 3

In paragraph 3, delete the words : "or to other rules of international law".

Alternative

Replace the above-mentioned words by the following : "or to the other rules of international law applicable to the coastal State".

[If the first proposal is adopted, this alternative is automatically withdrawn.]

ADDITIONAL PARAGRAPHS

1. Add the following new paragraph 6 :

"6. Flying-boats or other aircraft capable of taking off from the surface of the sea may not take off during their passage through the territorial sea without the permission of the coastal State."

2. Add the following new paragraph 7 :

"7. Foreign fishing vessels may enjoy the right of innocent passage through the territorial sea, provided they observe the laws and regulations of the coastal State."

DOCUMENT A/CONF.13/C.1/L.16**Yugoslavia: proposal**

[Original text : French]
[24 March 1958]

Article 16**ADDITIONAL PARAGRAPH**

Insert, as paragraph 2, the following :

"2. The coastal State is required to take the steps which are necessary for the safety of navigation."

The present paragraph 2 would then become paragraph 3.

DOCUMENT A/CONF.13/C.1/L.17**Yugoslavia: proposal**

[Original text : French]
[24 March 1958]

Article 17**PARAGRAPH 1**

Replace by the following text :

"1. The coastal State may take the steps which are necessary in its territorial sea for the purpose of protecting itself against any act prejudicial to any of its interests whatsoever, on condition, however, that the steps taken for this purpose do not prevent the ships of other States from enjoying the right of innocent passage in conformity with the present rules"

DOCUMENT A/CONF.13/C.1/L.18**Yugoslavia: proposal**

[Original text : French]
[24 March 1958]

Articles 16 and 17

Reverse the order of these articles. Article 16 would thus become article 17 and vice versa.

DOCUMENT A/CONF.13/C.1/L.20**Yugoslavia: proposal**

[Original text : French]
[24 March 1958]

Article 20**PARAGRAPH 2**

Add the following sentence :

“The coastal State has not the right to arrest and try in its courts any person on board the ship who is, under its law, subject to the coastal State's jurisdiction, by reason of any acts committed before the ship entered its territorial sea, if the ship, proceeding from a foreign port, is merely passing through the territorial sea without entering internal waters.”

DOCUMENT A/CONF.13/C.1/L.21**Yugoslavia: proposal**

[Original text : French]
[24 March 1958]

Article 24

1. The text of the present article to become paragraph 1.
 2. After the new paragraph 1 add the following new paragraphs 2 and 3 :
“2. The coastal State may deny the exercise of the right of innocent passage through its territorial sea to any ship carrying any kind of nuclear weapon.
“3. During the passage, the warship shall enjoy complete immunity from the jurisdiction of every State other than its flag State.”
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DOCUMENT A/CONF.13/C.1/L.22**Yugoslavia: proposal**

[Original text : French]
[24 March 1958]

Article 25

At the end of the article, replace the full stop by a comma and add the following passage : “the question of responsibility for the violation of the law to the prejudice of the coastal State to be settled by the States concerned through the diplomatic channel.”

DOCUMENT A/CONF.13/C.1/L.23**Romania: proposal**

[Original text : French]
[24 March 1958]

Article 15**PARAGRAPH 3**

Amend the first sentence to read :

“3. Passage is innocent if it is necessary for the purpose of the normal course of the ship and so long as the latter does not . . .”

DOCUMENT A/CONF.13/C.1/L.24**United Kingdom of Great Britain and Northern Ireland: proposal**

[Original text : English]
[24 March 1958]

Article 15**PARAGRAPH 3**

1. Add after "acts" the words "which are in themselves".
2. Add before "contrary" the word "otherwise".

PARAGRAPH 4

Delete the word "ordinary".

DOCUMENT A/CONF.13/C.1/L.25**Federal Republic of Germany: proposal**

[Original text : French]
[24 March 1958]

Article 15**PARAGRAPH 3**

Delete the words "or to other rules of international law".

DOCUMENT A/CONF.13/C.1/L.26**Portugal: proposal**

[Original text : English]
[24 March 1958]

Article 15

Replace the present text and heading by the following text :

"RIGHT OF INNOCENT PASSAGE"**"Article 15"**

"Subject to the provisions of the present rules, all ships shall enjoy the right of innocent passage through the territorial sea, and also, in the exceptional cases expressly provided for elsewhere in these articles, through the internal waters.

"MEANING OF INNOCENT PASSAGE"**Article 15 A**

- "1. 'Passage' means navigation through the territorial

sea for the purpose either of traversing that sea without entering internal waters, or of proceeding from the high seas to internal waters, or of making for the high seas from internal waters, and also navigation through the internal waters in well defined sea lanes in the conditions set forth elsewhere in these articles.

"2. Passage includes stopping and anchoring provided these acts are incidental to ordinary navigation or are rendered necessary by *force majeure*, by stress of weather or by distress.

"3. Passage is innocent as long as a ship passes without committing any act contrary to the laws and provisions enacted, in conformity with these articles and with other applicable rules of international law, by the coastal State with jurisdiction over the navigated waters.

"4. If, however, the ship is a submarine passing through waters of a State other than the flag State, she is furthermore bound to navigate on the surface, showing her flag."

DOCUMENT A/CONF.13/C.1/L.27**Netherlands: proposal**

[Original text : English]
[24 March 1958]

Article 15**PARAGRAPH 1**

Replace this paragraph by the following :

- "1. Subject to the rights of the coastal State, as provided in articles 17, 19 (paragraph 2), 20, 21, 24 and 25, ships of all States shall enjoy the right of innocent passage through the territorial sea."

PARAGRAPHS 3 AND 4

1. Reverse the order of the present paragraphs 3 and 4.
 2. Revise the new paragraph 4 to read as follows :
 “ 4. Passage is innocent unless the ship, during its passage through the territorial sea, is used for committing any act contrary to the rules of international law and prejudicial to the interests of the coastal State.”
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DOCUMENT A/CONF.13/C.1/L.28**United States of America: proposal**

[Original text : English]
 [24 March 1958]

Article 15

PARAGRAPH 3

Amend the paragraph to read as follows :

“ Passage is innocent so long as it is not prejudicial to the security of the coastal State or contrary to the present rules.”

Comments

The above proposal is submitted for the following reasons :

(a) The phrase in paragraph 3 of draft article 15 that “ . . . the ship does not use the territorial sea for committing any acts . . . ” is considered to be ambiguous.

(b) The phrase which refers to “ other rules of international law ” in paragraph 3 of draft article 15 was never discussed by the International Law Commission and has no commonly understood meaning. It will serve only to confuse the definition. Other rules of international law, if any, are clearly applicable, if they are not contrary to the present definition.

DOCUMENT A/CONF.13/C.1/L.28/Rev.1**United States of America: proposal**

[Original text : English]
 [26 March 1958]

Article 15

PARAGRAPH 3

Amend the paragraph to read as follows :

“ Passage is innocent so long as it is not prejudicial to the security of the coastal State. Such passage shall take place in conformity with the present rules.”

DOCUMENT A/CONF.13/C.1/L.29**Denmark: proposal**

[Original text : English]
 [24 March 1958]

Article 15

ADDITIONAL PARAGRAPH

Add a new paragraph 6 as follows :

“ 6. Fishing vessels shall have their gear stowed away.”

DOCUMENT A/CONF.13/C.1/L.30**Italy: proposal**

[Original text : French]
[24 March 1958]

Article 15**ADDITIONAL PARAGRAPH**

Add a new paragraph 6, worded as follows :

“Fishing vessels shall enjoy the right of innocent passage through the territorial sea, on condition that they observe the regulations governing fishing in that sea which are adopted by the coastal State in conformity with international law.”

DOCUMENT A/CONF.13/C.1/L.32**Greece: proposal**

[Original text : English]
[24 March 1958]

Article 18

At the end of the article add the following :

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

DOCUMENT A/CONF.13/C.1/L.33**Greece: proposal**

[Original text : English]
[24 March 1958]

Article 20**PARAGRAPH 1**

Delete sub-paragraph (a), sub-paragraphs (b) and (c) thus becoming (a) and (b).

ADDITIONAL PARAGRAPH

Add after paragraph 2 the following paragraph 3 :

“3. In the cases described in paragraphs 1 and 2 of this article, the coastal State shall, before taking any steps, advise the consular authority of the ship's flag and shall facilitate contact between such authority and the ship's crew.”

Paragraph 3 thus becomes paragraph 4.

DOCUMENT A/CONF.13/C.1/L.34**Greece: proposal**

[Original text : English]
[24 March 1958]

Article 23

Delete this article.

After the word “warships” and before the word “through” insert the words :
“and government ships operated for non-commercial purposes”

DOCUMENT A/CONF.13/C.1/L.35**Poland: proposal**

[Original text : French]
[24 March 1958]

Article 24

Substitute the following text for the second sentence :

“Innocent passage shall be subject to the observance of the provisions of articles 17 and 18.”