

# **Third United Nations Conference on the Law of the Sea**

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Document:-  
**A/CONF.62/C.2/L.15]**

## **Denmark and Finland: amendment to document A/CONF.62/C.2/L.3**

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume III (Documents of the Conference, First and Second Sessions)*

from which the breadth of the territorial sea of each State is measured.

3. If a State concerned refuses to enter into or to continue negotiations, or if no agreement is reached within . . . after negotiations have been commenced, the procedure of conciliation of the type provided for in article 66 (b) and the annex of the 1969 Vienna Convention on the Law of Treaties<sup>3</sup> may be set in motion by any of the States concerned.

4. If agreement is not reached within . . . after the Conciliation Commission has made its final recommendations, the question of delimitation may be submitted, by any of the States concerned, to the procedure for the compulsory judicial settlement of disputes, provided for in article . . . of the present Convention.

#### *Explanatory note*

1. In all cases where, under the new convention on the law of the sea, coastal States would be entitled to extend some form of national jurisdiction over sea areas adjacent to their coasts up to a determined maximum limit, the question of delimitation as between adjacent or opposite coastal States may arise. The present proposal intends to lay down substantive guidelines for the solution of this question (see para. 1 above) as well as procedures for their application (see paras. 1, 3 and 4 above) and interim solutions to be applied pending the final determination of the delimitation lines (see para. 2 above).

2. The normal procedure of delimitation should be by agreement between the States concerned. Paragraph 1 of the present proposal embodies this principle and gives guidelines for the negotiation of such agreement. Among the "equitable principles" mentioned therein figures the principle of equidis-

tance, which, in many situations, will result in an equitable delimitation. There are, however, circumstances in which this would not be the case, and paragraph 1 accordingly prescribes the taking into account of all circumstances relevant for reaching an equitable solution.

3. Experience has shown that adjacent or opposite States may need the advice and help of an impartial body of persons in order to reach agreement on delimitation. Similar considerations led the United Nations Conference on the Law of Treaties of 1969 to adopt a compulsory system of conciliation. Paragraph 3 of the present proposal suggests the application of that system—possibly with some adaptation as to the details—to the question of delimitation.

4. Under the Convention on the Law of Treaties the report of the Conciliation Commission, containing its final recommendations, is not binding and, consequently, this procedure cannot in itself produce a final solution of the delimitation question. Accordingly paragraph 4 of the present proposal suggests that, if negotiations and conciliation have finally failed to bring the parties to an agreement, judicial settlement of the dispute should take place, in conformity with the rules to be set out elsewhere in the new convention on the law of the sea.

5. The final settlement of the question of delimitation may take a long time. It would seem essential that pending such settlement—through agreement or through judicial pronouncement—and without prejudice to such final solution, some interim rule should apply. In the first phase of the procedure only an automatically applicable rule could serve the purpose of restraining unilateral measures of the States concerned (see para. 2 of the present proposal).

However, as soon as the second phase of the procedure—i.e. conciliation—has started, under paragraph 4 of the annex to the Vienna Convention on the Law of Treaties, the Conciliation Commission may at any time "draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement".

<sup>3</sup> *Official Records of the United Nations Conference on the Law of Treaties, 1968 and 1969* (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.

## DOCUMENT A/CONF.62/C.2/L.15

### Denmark and Finland: amendment to document A/CONF.62/C.2/L.3

[Original: English]  
[22 July 1974]

*Amend* chapter III, article 1, as follows:

#### *Article 1*

"1. In straits to which this article applies, all ships and aircraft enjoy the right of transit passage, which shall not be impeded.

"2. Transit passage is the exercise in accordance with the provisions of this chapter of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas and another part of the high seas or a State bordering the strait.

"3. This article applies to any strait or other stretch of water which is more than six miles wide between the baselines, whatever its geographical name, which:

"(a) is used for international navigation;  
"(b) connects two parts of the high seas.

"4. Transit passage shall apply in a strait only to the extent that:

"(a) an equally suitable high seas route does not exist through the strait; or

"(b) if the strait is formed by an island of the coastal State, an equally suitable high seas passage does not exist seaward of the island.

"5. The provisions of chapter II, part III apply to straits used for international navigation not wider than 6 miles between the baselines.

"There shall be no suspension of innocent passage of foreign ships through such straits."