

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

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**A/CONF.62/C.2/L.26**

**Bulgaria, German Democratic Republic, Poland, Union of Soviet Socialist Republics:  
draft articles on the territorial sea**

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## SCIENTIFIC RESEARCH

## Article 11

It is for the coastal State to authorize scientific research activities on the continental shelf; it is entitled to participate in

them and to be informed of the results thereof. In such regulations as the coastal State may issue on the matter, the desirability of promoting and facilitating such activities shall be taken especially into account.

## DOCUMENT A/CONF.62/C.2/L.26

**Bulgaria, German Democratic Republic, Poland, Union of Soviet Socialist Republics:**  
**draft articles on the territorial sea**

[Original: Russian]  
 [29 July 1974]

**I. NATURE AND CHARACTERISTICS OF THE  
 TERRITORIAL SEA AND ITS BREADTH**

## Article 1

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 or to its internal waters and 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 the bed and subsoil thereof. All the resources of the territorial sea are under the sovereignty of the coastal State.

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

## Article 2

Each State has the right to determine the breadth of its territorial sea within a maximum limit of 12 nautical miles, measured from the baselines determined in accordance with articles . . . of this Convention, and subject to the provisions of articles . . . concerning straits used for international navigation.

**II. METHOD OF MEASURING AND DELIMITING  
 THE TERRITORIAL SEA**

Add here the text of articles 3 to 13 of the 1958 Convention on the Territorial Sea and the Contiguous Zone.<sup>4</sup>

**III. RIGHT OF INNOCENT PASSAGE THROUGH  
 THE TERRITORIAL SEA**

## A. RULES APPLICABLE TO ALL SHIPS

## Article 14

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

Passage of straits used for international navigation is governed by articles . . . of this Convention.

## Article 15

1. Innocent passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to or from internal waters.

2. Innocent passage includes stopping and anchoring provided they are incidental to ordinary navigation or navigating conditions or are rendered necessary by *force majeure* or by distress.

## Article 16

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 innocent so long as it does not engage in any of the following in the territorial sea:

(a) Any threat or use of force either against the territorial integrity or the political independence of the coastal State or in any other way incompatible with the Charter of the United Nations;

(b) Any exercises or gunfire, launching of missiles or other use of weapons of any kind;

(c) The launching or taking on board of any aircraft;

(d) The unloading or loading of any cargo in violation of the laws of the coastal State;

(e) The disembarking or embarking of any person in violation of the laws of the coastal State;

(f) Deliberate acts interfering with any system of communication of the coastal State;

(g) Deliberate acts interfering with any other facilities or installations of the coastal State.

The provisions of subparagraphs (c) to (g) of this article shall not apply to any activity carried out with the prior authorization of the coastal State or rendered necessary by *force majeure* or by distress.

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

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

## Article 17

1. Foreign nuclear-powered ships and ships carrying nuclear substances shall, during passage through territorial waters, observe special precautionary measures and carry papers established for such ships by international agreements.

2. In exercising their right of passage, foreign scientific research, hydrographic survey and other ships may not carry out any marine research or surveys without previous authorization from the coastal State.

## Article 18

1. The coastal State shall not hamper innocent passage through the territorial sea or discriminate amongst foreign ships in respect of such passage.

2. The coastal State is required to give appropriate publicity to any navigational hazards of which it has knowledge, within its territorial sea.

<sup>4</sup>United Nations, *Treaty Series*, vol. 516, p. 206.

*Article 19*

1. The coastal State may take the necessary steps in its territorial sea to prevent non-innocent passage.
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 the admission of those ships to those waters is subject.
3. The coastal State may, without discrimination among foreign ships, suspend temporarily and in specified areas of its territorial sea the right of 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 and on the condition that the other shortest routes for innocent passage have at the same time been designated.

*Article 20*

1. The coastal State may adopt laws and regulations in respect of innocent passage through its territorial sea. Such laws and regulations shall comply with the provisions of the present Convention and other rules of international law and may be in respect of the following questions:
  - (a) The safety of navigation and the regulation of sea navigation;
  - (b) The prevention of destruction of, or damage to, installations or aids to navigation;
  - (c) The prevention of destruction of, 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) Prevention of damage to communication lines and electrical transmissions;
  - (e) The preservation of the environment and prevention of pollution of the coastal waters and shores of the State in accordance with articles . . . of the present Convention;
  - (f) Scientific exploration of the marine environment, including water density, the sea-bed and the subsoil of the territorial sea;
  - (g) Prevention of infringement of the customs, fiscal, immigration, sanitary and phyto-sanitary regulations of the coastal State;
  - (h) Prevention of fishing by foreign vessels in the territorial sea.

2. Such laws and regulations shall not relate to questions concerning the construction, manning, equipment or technical gear of foreign ships or impose requirements on such ships which may have the practical effect of denying or seriously prejudicing their right of innocent passage in accordance with the present Convention.

3. The coastal State shall give due publicity to all laws and regulations on innocent passage.

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

5. The coastal State shall ensure that the application of such laws and regulations in respect of foreign ships enjoying the right of innocent passage is in conformity with the provisions of the present Convention. The coastal State shall be answerable to the State whose flag the ship flies for any damage caused to that ship as a result of the application of the laws or regulations of the coastal State in a manner contrary to the provisions of the present Convention.

*Article 21*

In areas of the territorial sea in which navigation conditions make it so desirable, the coastal State may introduce sea lanes and traffic separation schemes and shall ensure that these are

clearly indicated on the charts and that they are given due publicity.

*Article 22*

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 only as payment for specific services rendered to the ships. These charges shall be levied without discrimination.

## B. RULES APPLICABLE TO MERCHANT SHIPS

*Article 23*

1. 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 an investigation in connexion with a 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 is 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 set forth above do not affect the right of the coastal State, when there is justification, 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 flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of extreme urgency 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 an investigation in connexion with a 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 the internal waters of the State concerned.

*Article 24*

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 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 civil proceedings, a foreign ship lying in the territorial sea or passing through the territorial sea after leaving internal waters.

4. Government ships operated for commercial purposes in foreign territorial waters shall enjoy immunity, and therefore

the measures referred to in this article may be applied to them only with the consent of the State whose flag the ship flies.

C. RULES APPLICABLE TO GOVERNMENT SHIPS OPERATED FOR NON-COMMERCIAL PURPOSES

*Article 25*

1. The rules contained in subsection A shall apply to government ships operated for non-commercial purposes.

2. Except in the cases provided for in the provisions referred to in the previous paragraph nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

D. RULES APPLICABLE TO WARSHIPS

*Article 26*

The rules contained in subsection A shall apply to foreign warships, but nothing in this Convention shall affect the immunity which warships enjoy in accordance with the generally accepted rules of international law.

*Article 27*

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

DOCUMENT A/CONF.62/C.2/L.27

Byelorussian Soviet Socialist Republic, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Mongolia, Poland and Union of Soviet Socialist Republics: draft article on the contiguous zone

[*Original: English*]  
[29 July 1974]

1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to:

(a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

(b) Punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond 12 miles from the baseline from which the breadth of the territorial sea is measured.

3. 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 contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

DOCUMENT A/CONF.62/C.2/L.28

Kenya and Tunisia: draft article on the delimitation of the continental shelf or the exclusive economic zone

[*Original: French*]  
[30 July 1974]

1. The delimitation of the continental shelf or the exclusive economic zone between adjacent and/or opposite States must be done by agreement between them, in accordance with an equitable dividing line, the median or equidistance line not being necessarily the only method of delimitation.

2. For this purpose, special account should be taken of geological and geomorphological criteria, as well as of all the special circumstances, including the existence of islands or islets in the area to be delimited.