

United Nations Conference on the Law of the Sea

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Documents:
A/CONF.13/C.2/L.3-35

Annexes

Extract from the *Official Records of the United Nations Conference on the Law of The Sea, Volume IV (Second Committee (High Seas: General Regime))*

contiguous zone, as defined in article 66, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by bearings, sextant angles or other like means, that the ship pursued or one of its boats is within the limits of the territorial sea or, as the case may be, within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft :

(a) The provisions of paragraphs 1 to 3 of the present article shall apply *mutatis mutandis* ;

(b) The aircraft giving the order to stop must itself actively pursue the ship until a ship of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

POLLUTION OF THE HIGH SEAS

Article 48

1. Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

2. Every State shall draw up regulations to prevent pollution of the seas from the dumping of radioactive waste.

3. All States shall co-operate in drawing up regulations with a view to the prevention of pollution of the seas or air space above, resulting from experiments or activities with radioactive materials or other harmful agents.

SUB-SECTION C. SUBMARINE CABLES AND PIPELINES

Article 61

1. All States shall be entitled to lay telegraph, telephone or high-voltage power cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

Article 62

Every State shall take the necessary legislative measures to provide that the breaking or injury of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine high-voltage power cable or pipeline, 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 their ships, after having taken all necessary precautions to avoid such break or injury.

Article 63

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost.

Article 64

Every State shall regulate trawling so as to ensure that all the fishing gear used shall be so constructed and maintained as to reduce to the minimum any danger of fouling submarine cables or pipelines.

Article 65

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

DOCUMENT A/CONF.13/C.2/L.3

Mexico: proposal

[Original text : Spanish]
[12 March 1958]

Article 27

Insert the following between the words "high seas" and "comprises":

"is exercised under the conditions laid down by these articles and by the other rules of international law. It".

DOCUMENT A/CONF.13/C.2/L.4**Mexico: proposal**

[Original text : Spanish]
[12 March 1958]

Article 47**PARAGRAPH 3****PARAGRAPH 1**

Insert between the words "as defined in article 66," and "the pursuit may only be undertaken", the following words :

"or within a conservation zone for the living resources of the sea unilaterally adopted by the coastal State in accordance with article 55".

Replace the words "the zone was" by the words "the said zones were".

After the words "within the contiguous zone" at the end of the first sentence, add the following: "or within a conservation zone for the living resources of the sea unilaterally adopted by the coastal State in accordance with article 55".

Insert between the words "or one of its boats" and "is within the limits", the following words: "or other craft working as a team and using the ship pursued as a mother ship".

Replace the words "is within" by the words "are within".

DOCUMENT A/CONF.13/C.2/L.5 ***Colombia: proposal**

[Original text : English]
[12 March 1958]

Article 33

The article to read as follows :

"Ships used exclusively on non-commercial government service owned or operated by a State shall enjoy the same immunity as warships in regard to the exercise of jurisdiction on the high seas by any State other than the flag State. Only warships may exercise policing rights."

* Incorporating document A/CONF.13/C./L.5/Corr.1.

DOCUMENT A/CONF.13/C.2/L.6 ***France: proposal**

[Original text : French]
[14 March 1958]

Article 26**PARAGRAPH 1**

The paragraph to read as follows :

"The term 'high seas' means all parts of the sea beyond the outer limit of the territorial sea as determined in the relevant articles."

PARAGRAPH 2

Delete this paragraph.

Article 27

The article to read as follows :

"1. The high seas are open to all nations; the fundamental principle of the freedom of the high seas means that no State may validly purport to subject any part of them to its sovereignty.

* Incorporating document A/CONF.13/C.2/L.6/Corr.1.

"2. Exercise of the freedom of the high seas is regulated by international law in order to ensure their use in the interests of the entire international community."

Article 28

The article to read as follows :

"Every State has the right to sail such ships on the high seas as are entitled to fly its flag."

Article 29

The article to read as follows :

"1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly.

"2. Nevertheless, for purposes of recognition of the national character of the ship by other States, there must exist a genuine link between the State and the ship.

The criteria applied by the State of registration for the grant of its nationality must in any event provide for effective and constant control to ensure that living, working and safety conditions on board conform to the minimum standard recognized as essential in the general interests of navigation.

“3. The right of a ship to fly the flag of a State is evidenced by documents issued by the authorities of the State of the flag.”

Article 34

PARAGRAPH 1

Paragraph 1 (a) to read as follows :

“(a) The use of signals and means of communication and the prevention of collisions ;”

Article 35

PARAGRAPH 1

Substitute the words “the incriminated person” for the words “the accused person” near the end of the paragraph.

ADDITIONAL PARAGRAPH

Insert, between paragraph 1 and the present paragraph

2 (which would then become paragraph 3), a new paragraph reading as follows :

“2. In disciplinary matters, the State which has issued a master's certificate or a qualifying certificate shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.”

Article 36

Article 36 to come immediately after article 34.

Note. — Article 35, on the subject of penal jurisdiction in matters of collision, should logically follow the more general provision concerning collisions contained in subparagraph (c) of the present draft article 36.

In subparagraph (b), delete the words “with all speed”.

Note. — These words are, to say the least, unnecessary, in view of the general qualification expressed at the beginning of article 36 in the phrase “in so far as he [the master of a ship] can do so without serious danger to the ship, the crew or the passengers”.

Article 48

PARAGRAPH 2

Substitute the words “contamination by radio-active substances” for the words “the dumping of radio-active waste”.

DOCUMENT A/CONF.13/C.2/L.7

Portugal: proposal

[Original text : English]
[14 March 1958]

Article 27

The article to read as follows :

“1. The high seas being open to all nations, no State may purport to subject any part of them to its jurisdiction, sovereignty or any authority whatsoever. States are moreover bound to refrain from any acts which might adversely affect the use of the high seas by other States and cannot consequently exert any jurisdiction whatsoever over a navigable belt of water ensuring the access to the high seas of any other coastal State.

“2. Freedom of the high seas shall be enjoyed in conformity with the provisions of the articles and other applicable rules of international law, and comprises, *inter alia* :

- (a) Freedom of navigation ;
- (b) Freedom of fishing ;
- (c) Freedom to lay submarine cables and pipelines ;
- (d) Freedom to fly over the high seas ;
- (e) Freedom to undertake research, experiments and exploration.”

DOCUMENT A/CONF.13/C.2/L.10

Thailand: proposal

[Original text : English]
[18 March 1958]

Article 45

Add the following words at the end of the article :
“or other ships or aircraft on government service authorized to that effect.”

DOCUMENT A/CONF.13/C.2/L.11

Brazil: proposal

[Original text : French]
[19 March 1958]

Article 28

The article to read as follows :

- “ 1. Every State has the right to sail ships of its nationality on the high seas.
- “ 2. A ship shall not have the right to sail on the high seas if it does not possess the nationality of a State or if it uses the nationality of more than one State.
- “ 3. Every ship shall fly the flag of the State whose nationality it uses for the purposes of navigation.”

Article 29

The article to read as follows :

- “ 1. Every State shall lay down the conditions governing the acquisition and loss of its nationality by a ship.
- “ 2. Before granting its nationality to a ship every State shall insist on conditions guaranteeing effective control and jurisdiction on the part of the State in question over the ship, in particular conditions regarding :

(a) The participation of its nationals or of persons resident in its territory in the ownership or operation of the ship, or in the financial control and in the management of the body corporate owning or operating the ship ;

(b) The establishment in its territory of the head office

or of the place in which the body corporate owning or operating the ship effectively carries on its activity.

“ 3. The provision of the preceding paragraph shall not apply to ships :

(a) Owned or operated by the State or by organizations under its control ;

(b) Sailing under its flag in the service of an international organization of which the State is a member.

“ 4. A state shall not grant its nationality to a ship possessing the nationality of another State, except in the following circumstances :

(a) If the ship has fulfilled the conditions governing the loss of nationality laid down by the legislation of the State of its nationality ; or

(b) If the ship has been confiscated by reason of violation of the laws of a State other than the State of its nationality.

“ 5. Except in the case of warships (article 32) the right of a ship to use the nationality of a State is evidenced by documents issued by the authorities of that State.”

Article 30

(See document A/CONF.13/C.2/L.11/Rev.1, which follows.)

DOCUMENT A/CONF.13/C.2/L.11/Rev.1

Brazil: revised proposal

[Original text : English]
[3 April 1958]

Article 29

The article to read as follows :

- “ 1. Every State shall fix the conditions governing the acquisition and loss of its nationality by a ship.
- “ 2. No State shall grant its nationality to a ship unless there is a genuine link between the State and the ship that guarantees effective control and jurisdiction over the ship.
- “ 3. No State shall grant its nationality to a ship possessing the nationality of another State, unless the ship has fulfilled the condition governing the loss of its nationality laid down by the legislation of the State of its nationality.
- “ 4. Except in the case of warships (article 32) the right of

a ship to use the nationality of a State is evidenced by documents issued by the authorities of that State.”

Article 30

The article to read as follows :

“ 1. Save in exceptional cases expressly provided for by treaties or in these articles, a ship shall be subject on the high seas to the exclusive jurisdiction of the State whose nationality it uses for the purpose of navigation.

“ 2. A ship may not change its flag during a voyage or while in a port of call unless such change reflects in fact, and in accordance with the laws of the States concerned, the loss of one nationality and the acquisition of another.”

DOCUMENT A/CONF.13/C.2/L.12/Rev.1**Liberia: proposal**

[Original text : English]
[28 March 1958]

Article 29

PARAGRAPH 1

The paragraph to read as follows :

“ 1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag. The State shall exercise effective jurisdiction and control over the ship. Ships have the nationality of the State whose flag they are entitled to fly.”

DOCUMENT A/CONF.13/C.2/L.13**Philippines: proposal**

[Original text : English]
[19 March 1958]

Article 37

HEADING

Change the heading “Slave trade” to “Slave trade and forced labour”.

ADDITIONAL PARAGRAPH

Add a second paragraph, reading as follows :

“ 2. Every State that is bound by any convention for the suppression of forced labour, as defined in such convention, shall assume the same obligation as that imposed by the preceding paragraph, with respect to persons subjected to forced labour.”

DOCUMENT A/CONF.13/C.2/L.15**Yugoslavia: proposal**

[Original text : French]
[20 March 1958]

Article 27

The article to read as follows :

“ 1. The high seas are open to all nations on the same terms.

“ 2. The fundamental principle of the freedom of the high seas means :

“ (a) That no State exercises sovereignty over the high seas and no State may validly purport to subject any part of them to its sovereignty, authority or control in any way whatsoever, except in the cases provided for by these articles ;

“ (b) That States are bound to refrain from any acts

which might adversely affect the use of the high seas by nationals of other States ;

“ (c) That jurisdiction over ships on the high seas rests exclusively in the flag State, except in the cases provided for by these articles.

“ 3. The exercise of the freedom of the high seas is regulated by international law with the object of ensuring their use in the interests of the entire international community.

“ 4. Freedom of the high seas comprises, *inter alia* :

(a) Freedom of navigation ;

(b) Freedom of fishing ;

(c) Freedom to lay submarine cables and pipelines ;

(d) Freedom to fly over the high seas.”

DOCUMENT A/CONF.13/C.2/L.16**Yugoslavia: proposal**

[Original text : French]
[20 March 1958]

Article 31

At the beginning of the article, after the words "A ship which sails", insert the words "on the high seas".

Comment

The Yugoslav delegation proposes this amendment with the object of making the text clearer. Although article 31 appears in part II (High Seas), the Yugoslav delegation considers it should be stated expressly that the article applies to the high seas alone, for part II also includes articles which do not apply to the high seas exclusively.

DOCUMENT A/CONF.13/C.2/L.17**Yugoslavia: amendment to document A/CONF.13/C.2/L.5**

[Original text : French]
[20 March 1958]

Article 33

The text proposed by Colombia for article 33 (A/CONF.13/C.2/L.5) to be divided into two paragraphs, and an additional paragraph to be inserted between them. The article as redrafted would thus read:

"1. Ships used exclusively on non-commercial government service owned or operated by a State shall enjoy the same immunity as warships for all purposes connected with the exercise of jurisdiction on the high seas by any State other than the flag State.

"2. Ships used on commercial government service which are owned or operated by a State shall enjoy the same immunity on the high seas as the ships referred to in paragraph 1 of this article, except in the special zones specified by these articles and except in any case where the hot pursuit of any such ship is continued into the high seas, in which latter case the ship in question shall be assimilated to a private merchant ship.

"3. Only warships may exercise policing rights."

DOCUMENT A/CONF.13/C.2/L.18**Yugoslavia: proposal**

[Original text : French]
[20 March 1958]

Article 36

Insert the word "possible" between the words "at" and "speed" in subparagraph (b).

Comment

The Yugoslav delegation considers that the expression "with all speed" is not the most appropriate, because, according to the practice of shipping, it might mean that the ship is bound, in all cases, to reach the velocity ordinarily described as "full speed". The Yugoslav delegation therefore considers the expression "with all possible speed" preferable, for it enables the master of the ship to proceed at the greatest speed possible in the particular circumstances, taking into account the weather, the state of the sea and the performance of the ship.

DOCUMENT A/CONF.13/C.2/L.19**Yugoslavia: proposal**

[Original text : French]
[20 March 1958]

Article 40

The article to read as follows :

“ The acts of piracy, as defined in article 39, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private vessel.”

Comment

The term *navire d'Etat* corresponds to the English term “ government ship ” and does not include warships. The Yugoslav delegation believes that it would be desirable to specify that this article covers both types of vessel.

DOCUMENT A/CONF.13/C.2/L.20/Rev.1 and L.61/Rev.1**Poland and Yugoslavia: proposal**

[Original text : French]
[3 April 1958]

(This document replaces the proposals by Yugoslavia (A/CONF.13/C.2/L.20) and Poland (A/CONF.13/C.2/L.61) previously circulated.)

Article 47

PARAGRAPH 1

In the second sentence, insert the words “ or the contiguous zone ” between the words “ or the territorial sea ” and the words “ of the pursuing State ”, and again between the words “ outside the territorial sea ” and the words “ if the pursuit ”.

In the third sentence insert the words “ or the contiguous zone ” after the words “ within the territorial sea ”, each time they occur.

DOCUMENT A/CONF.13/C.2/L.21**Netherlands: proposal**

[Original text : English]
[20 March 1958]

Article 27

The article to read as follows :

“ 1. The high seas are open to all nations. Freedom of the high seas comprises, *inter alia* :

- (a) Freedom of navigation ;
- (b) Freedom of fishing ;
- (c) Freedom to lay submarine cables and pipelines ;
- (d) Freedom to fly over the high seas.

“ 2. No State may validly purport to subject any part of the high seas to its sovereignty.

“ 3. Ships on the high seas shall be subject to the exclusive jurisdiction of the State whose flag they are entitled to fly, save in exceptional cases expressly provided for in international treaties or in the present articles.”

DOCUMENT A/CONF.13/C.2/L.22 ***Netherlands: proposal**

[Original text : English]
[20 March 1958]

Article 29

The article to read as follows :

“ 1. Each State shall fix the conditions for the grant of the right to fly its flag in such a manner that a genuine link between the State and the ship is ensured, implying in particular the exercise of effective jurisdiction and control

* Incorporating documents A/CONF.13/C.2/L.22/Corr.1, 2 and 3.

over the ship. In the absence of such link other States are not bound to recognize the national character of the ship.

“ 2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.”

[The words “ to that effect ”, at the end of the above text, were substituted for the phrase “ evidencing this right ” which appeared in the original version of the proposal. See summary record of the 24th meeting of the Second Committee, para. 36.]

DOCUMENT A/CONF.13/C.2/L.23**Netherlands: proposal**

[Original text : English]
[20 March 1958]

Articles 30 and 31

Replace the two articles by the following text :

“ Ships shall sail under the flag of one State only. A ship which sails under the flags of two or more States may be treated by every other State as a ship which is not entitled to fly the flag of any State.”

DOCUMENT A/CONF.13/C.2/L.24 and Add.1**Netherlands: proposal**

[Original text : English]
[20 and 27 March 1958]

Article 34**PARAGRAPH 1**

Substitute the words “ entitled to fly its flag ” for the words “ under its jurisdiction ”.

ADDITIONAL PARAGRAPH

(Document A/CONF.13/C.2/L.24/Add.1)

Delete paragraph 1 (b) and add a new paragraph 3 as follows :

“ 3. Measures shall be taken in every State to ensure, whether by means of laws or regulations, collective agreements between shipowners and seafarers, or a combination of laws or regulations and such collective agreements, that the manning of each vessel is adequate to its safety requirements, and that the labour conditions of the crew are reasonable, taking into account, in so far as they are not already in force for the State concerned, the applicable international labour instruments.”

DOCUMENT A/CONF.13/C.2/L.25**Netherlands: proposal**

[Original text : English]
[20 March 1958]

Article 36

The article to read as follows :

“ Every State shall take the necessary legislative measures to ensure that the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,

(a) Renders assistance to any person found at sea in danger of being lost ;

(b) Proceeds with all speed to the rescue of persons in distress if informed of their need for assistance, in so far as such action may reasonably be expected of him ;

(c) After a collision, renders assistance to the other ship, her crew and her passengers and, where possible, informs the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.”

DOCUMENT A/CONF.13/C.2/L.26**Romania and Ukrainian Soviet Socialist Republic: proposal**

[Original text : Russian]
[21 March 1958]

Article 26

PARAGRAPH 1

Add the following :

“ For certain seas a special régime of navigation may be established for historical reasons or by virtue of international agreements.”

DOCUMENT A/CONF.13/C.2/L.27**Romania: proposal**

[Original text : French]
[21 March 1958]

Article 31

Between the words “ according to convenience ” and “ may not ”, insert the words “ during the same voyage ”.

DOCUMENT A/CONF.13/C.2/L.28 ***Italy: proposal**

[Original text : French]
[21 March 1958]

Article 29

PARAGRAPH 1

The paragraph to read as follows :

“ 1. Each State shall fix the conditions for the grant of

* Incorporating documents A/CONF.13/C.2/L.28/Corr.1 and Corr.2.

its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. Nevertheless, for purposes of recognition of the national character of the ship by other States, there must exist a genuine link between the State and the ship ; in particular, the State must effectively exercise its jurisdiction and control over ships flying its flag.”

DOCUMENT A/CONF.13/C.2/L.29**Poland: proposal**

[Original text : French]
[21 March 1958]

Article 27

The article to read as follows :

“ 1. All nations have the right to use the high seas freely. Freedom of the high seas comprises, *inter alia* :

- (a) Freedom of navigation ;
- (b) Freedom of fishing ;
- (c) Freedom to lay submarine cables and pipelines ;

(d) Freedom to fly over the high seas.

“ 2. The high seas being open on a basis of complete equality to all nations, no State may validly purport to subject any part of them to its sovereignty.

“ 3. States are bound to refrain from any act which might adversely affect the use of the high seas by nationals of other States.”

DOCUMENT A/CONF.13/C.2/L.30**Czechoslovakia, Poland, Union of Soviet Socialist Republics and Yugoslavia: proposal**

[Original text : French]
[21 March 1958]

Article 27

After article 27 insert a new article worded as follows :

“States are bound to refrain from testing nuclear weapons on the high seas.”

DOCUMENT A/CONF.13/C.2/L.32**Albania, Bulgaria, Union of Soviet Socialist Republics: proposal**

[Original text : English]
[21 March 1958]

Article 27

At the end of the article, add the following :

“No naval or air ranges or other combat training areas limiting freedom of navigation may be designated on the high seas near foreign coasts or on international sea routes.”

DOCUMENT A/CONF.13/C.2/L.34 ***Peru: proposal**

[Original text : Spanish]
[21 March 1958]

Article 27

The article to read as follows :

“The high seas are open to all States. The following rights, *inter alia*, may be exercised on the high seas :

- (1) The right of free navigation ;
 - (2) The right to fish, without prejudice to the rights of the coastal State under this convention ;
 - (3) The right to lay submarine cables and pipelines ;
 - (4) The right to fly over the high seas.”
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* Incorporating document A/CONF.13/C.2/L.34/Corr.1.

DOCUMENT A/CONF.13/C.2/L.35**Peru: amendment to document A/CONF.13/C.2/L.4**

[Original text : Spanish]
[21 March 1958]

In the Mexican proposal (A/CONF.13/C.2/L.4) to add a phrase to paragraphs 1 and 3 of article 47, replace the words “article 55” by a blank. The phrase in question would then read : “or within a conservation zone for the living resources of the sea unilaterally adopted by the coastal State in accordance with article . . .”

Note. — The above phrase would apply to the maritime zone proposed by the Peruvian delegation in the Third Committee, circulated subsequently as document A/CONF.13/C.3/L.41.

* See the proposal by Costa Rica, Chile, Ecuador and Peru in the Third Committee, circulated subsequently as document A/CONF.13/C.3/L.41.
