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A/CONF.62/C.2/L.18

Romania: draft articles on delimitation of marine and ocean space between adjacent and opposite neighbouring States and various aspects involved

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goes or passengers to, from and on behalf of any particular State.

4. The coastal State shall not place in navigational channels in a strait facilities, structures or devices of any kind which could hamper or obstruct the passage of ships through such strait. The coastal State is required to give appropriate publicity to any obstacle or danger to navigation, of which it has knowledge, within the strait.

Article 23

SPECIAL RIGHTS OF COASTAL STATES

The coastal State may require the co-operation of interested States and appropriate international organizations for the establishment and maintenance of navigational facilities and aids in a strait.

DOCUMENT A/CONF.62/C.2/L.17

Nicaragua: working paper on characteristics of the national zone

[Original: Spanish]
[23 July 1974]

1. The coastal State shall be entitled to a sea area adjacent to its coasts, up to a distance of 200 nautical miles measured from the applicable baseline. This area shall constitute the national sea of the coastal State. The delimitation of the national seas of adjacent or opposite coastal States shall be determined in accordance with the provisions of this Convention.

2. It shall be within the competence of the coastal State to make provision in its national sea for sovereign, jurisdictional or special powers, or combinations thereof with no limitations other than those provided for in this Convention.

3. The same right shall extend to the air space above the national sea, and to the submarine shelf which continues the territory of the State as far as the outer edge of the continental emersion. When the shelf does not extend as far as the outer limit of the national sea, the right of the coastal State shall extend to the sea-bed and the subsoil thereof as far as such outer limit.

4. The national sea, superjacent air space, submarine shelf and/or sea-bed and subsoil referred to in the preceding paragraph shall constitute the national zone of the coastal State, the

integrity and inviolability of which shall be guaranteed by the international community.

5. Within the first 12 nautical miles of the national sea, beginning from the baseline drawn for such sea, the coastal State shall guarantee to foreign ships the right of innocent passage in accordance with the terms defined in this Convention.

6. In the national zone beyond the first 12 nautical miles referred to in the preceding paragraph, the coastal State shall guarantee to natural or juridical persons of third States that fishing, freedom of navigation, overflight, the laying of submarine cables and pipelines, and other legitimate uses of the zone shall be subject to no restrictions other than those provided for in this Convention and in treaties concluded subsequent thereto.

7. Straits used for international navigation shall be subject to the régime referred to in . . .

8. Non-coastal and other geographically disadvantaged States shall benefit from the compensatory provisions of this Convention and from any preferences which they may obtain through treaties.

DOCUMENT A/CONF.62/C.2/L.18

Romania: draft articles on delimitation of marine and ocean space between adjacent and opposite neighbouring States and various aspects involved

[Original: French]
[23 July 1974]

Article 1

The delimitation of all the marine or ocean space between two neighbouring States shall be effected by agreement between them in accordance with equitable principles, taking into account all the circumstances affecting the marine or ocean area concerned and all relevant geographical, geological or other factors.

Article 2

1. The delimitation of any marine or ocean space shall, in principle, be effected between the coasts proper of the neighbouring States, using as a basis the relevant points on the coasts or on the applicable baselines, so that the areas situated off the sea frontage of each State are attributed thereto.

2. Islands which are situated in the maritime zones to be delimited shall be taken into consideration in the light of their size, their population or the absence thereof, their situation and

their geographical configuration, as well as other relevant factors.

3. Low-tide elevations, islets and islands that are similar to islets (of small size, uninhabited and without economic life) which are situated outside the territorial waters off the coasts and which constitute eminences on the continental shelf—whether light-houses or other installations have been built on them or not—and man-made islands—regardless of their dimensions and characteristics—shall not be taken into consideration in the delimitation of marine or ocean space between neighbouring States.

4. The naturally formed areas of land referred to in paragraph 3 may have around them or around some of their sectors maritime safety areas or even territorial waters, provided they do not affect marine spaces belonging to the coasts of neighbouring States.

5. The provisions of the present article shall not be applicable to islands and to other naturally formed areas of land

which constitute part of an island State or of an archipelagic State.

Article 3

The delimitation of space between two neighbouring States, whether they be adjacent or opposite, or whether they have both of these two geographical characteristics simultaneously, shall be governed by the method or combination of methods

which provides the most equitable solution. For example, neighbouring States may use, exclusively or jointly, the geographical parallel or the perpendicular line from the terminal point of the land or river frontier, equidistance, or the median line of the points closest to the coasts or their baselines. The terminal point of a river frontier shall be considered as the immediate confluence of the river and the sea, irrespective of whether the river flows into the sea in the form of an estuary.

DOCUMENT A/CONF.62/C.2/L.19

Fiji: draft articles relating to passage through the territorial sea

[Original: English]
[23 July 1974]

Explanatory note

In the draft articles submitted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in document A/AC.138/SC.II/L.42 (A/902) and Corr.1 and 3, vol. III, sect. 31), the Fiji delegation sought to establish general rules of a more objective nature for the passage of ships through the territorial sea. In particular it attempted to elaborate a more precise definition of the concept of innocent passage, and to elaborate on the existing rules relating to the passage of warships.

In the light of the many helpful comments that have since been made in relation to that paper, including the fact that other delegations have adopted parts of our text in their proposals, we felt that it might be desirable to revise our own paper in order to maintain the unity of its approach.

As in the case of the previous draft articles these are now presented to this Committee as a basis for discussion.

Since the concept of innocent passage is being discussed in relation to the territorial sea and in relation to straits, items 2 and 4 respectively, we consider it appropriate to relate this draft to both those items. This is without prejudice to any ultimate decision that this Committee or the Conference may make in relation to the régime or régimes applicable to the passage of foreign ships through straits.

Fiji: Revised draft articles on navigation through the territorial sea, including straits used for international navigation

I. RULES APPLICABLE TO ALL SHIPS

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 threat or use of force in violation of the Charter of the United Nations against the territorial integrity or political independence of the coastal State or of any other State, or if it engages in any of the following activities:

- (i) Any other warlike act against the coastal or any other State;
- (ii) Any exercise or practice with weapons of any kind;
- (iii) The launching or taking on board of any aircraft;
- (iv) The launching, landing or taking on board of any military device;
- (v) The embarking or disembarking of any person or cargo;
- (vi) Any act of espionage affecting the defense or security of the coastal State;
- (vii) Any act of propaganda affecting the security of the coastal State;
- (viii) Any act of interference with any systems of communication of the coastal or any other State;
- (ix) Any act of interference with any other facility or installation of the coastal State;
- (x) 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, ships or aircraft 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 in form or in fact 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