

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/C.2/L.53

Romania: draft articles on definition of and regime applicable to islets and islands similar to islets

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)*

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DOCUMENT A/CONF.62/C.2/L.52*

Bulgaria, German Democratic Republic and Poland: amendments to document
A/CONF.62/C.2/L.49

[Original: Russian]
[12 August 1974]

Change the texts of articles 1 and 4, and of article 5, paragraphs 8, 9 and 10, as follows:

"Article 1

- "1. These articles apply only to archipelagic States.
- "2. An archipelagic State is a State consisting wholly of one or several archipelagos forming a geographical, historical, political and economic entity.
- "3. All waters within the archipelagic State shall be under its sovereignty and shall be designated as archipelagic waters.
- "4. The sovereignty of the archipelagic State shall also extend to the air space over the archipelagic waters and to the surface and subsoil of the sea-bed of such waters. All resources of the archipelagic waters shall be under the sovereignty of the archipelagic State.
- "5. The archipelagic State shall exercise that sovereignty in accordance with the provisions of the present articles and other rules of international law.

"Article 4

"All ships shall enjoy equally freedom of passage in archipelagic straits, the approaches thereto, and those areas

* Incorporating document A/CONF.62/C.2/L.52/Corr.1 of 26 August 1974.

in the archipelagic waters of the archipelagic State along which normally lie the shortest sea lanes used for international navigation between one part and another part of the high seas.

"Article 5

- "8. Foreign ships exercising the right of free passage through the archipelagic waters or the sea lanes designated under the provisions of this article shall comply with the relevant laws and regulations made by the archipelagic State under the provisions of this article.
- "9. All ships passing through the straits and waters of archipelagic States shall not in any way endanger the security of such States, their territorial integrity or political independence. Warships passing through such straits and waters may not engage in any exercises or gunfire, use any form of weapon, launch or take on aircraft, carry out hydrographic surveys or engage in any similar activity unrelated to their passage. All ships shall inform the archipelagic State of any damage, unforeseen stoppage, or of any action rendered necessary by *force majeure*.
- "10. An archipelagic State may not interrupt or suspend the transit of ships through its straits or archipelagic waters, or take any action which may impede their passage."

DOCUMENT A/CONF.62/C.2/L.53

Romania: draft articles on definition of and régime applicable to islets and islands similar to islets

[Original: French]
[12 August 1974]

Article 1

1. An islet is a naturally formed elevation of land (or simply an eminence of the sea-bed) less than one square kilometre in area, surrounded by water, which is above water at high tide.
2. An island similar to an islet is a naturally formed elevation of land (or simply an eminence of the sea-bed) surrounded by water, which is above water at high tide, which is more than one square kilometre but less than . . . square kilometres in area, which is not or cannot be inhabited (permanently) or which does not or cannot have its own economic life.

Article 2

1. In principle, a State may not invoke the existence, in one of its maritime zones, of islets or islands similar to islets, as defined in article 1, for the purpose of extending the marine spaces which belong to its coasts.
2. Where such elevations of land are situated along the coast of the same State, in immediate proximity thereto, they shall be taken into consideration, in accordance with the provisions of this Convention, for the purpose of establishing the

baseline from which the breadth of the territorial sea is measured.

3. Where an islet or island similar to an islet is situated in the territorial sea of the same State but very close to its outer limit, the State in question may reasonably extend its territorial waters seaward or establish an additional maritime zone for the protection of lighthouses or other installations on such islet or island. The additional zones thus established shall in no way affect the marine spaces belonging to the coasts of the neighbouring State or States.

4. Islets or islands similar to islets which are situated beyond the territorial sea, on the continental shelf or in the economic zone of the same State, may have around them or around some of their sectors security areas or even territorial waters in so far as this is without prejudice to the marine spaces which belong to the coasts of the neighbouring State or States.

Where such eminences of the sea-bed are situated very close to the outer limit of the continental shelf or of the economic zone, the extension of their security zones or their territorial waters shall be established by agreement with the neighbouring State or States, or, where appropriate, with the authority for

the international zone, having regard to all relevant geographic, geological or other factors.

Article 3

The marine spaces of islets or islands similar to islets situated in the territorial sea, on the continental shelf or in the economic

zone of another State shall be determined by agreement between the States concerned or by other means of pacific settlement used in international practice.

The marine spaces of such elevations of land situated in the international zone of the sea-bed shall be established by agreement with the International Authority for that zone.

DOCUMENT A/CONF.62/C.2/L.54

Belgium, Denmark, France, Germany (Federal Republic of), Ireland, Italy, Luxembourg, Netherlands and United Kingdom of Great Britain and Northern Ireland: working paper on the high seas

[Original: English]
[12 August 1974]

It is clear that in any comprehensive convention on the law of the sea articles setting out the rights and duties of States on the high seas must be included. Such rights and duties are at present codified in the 1958 Geneva Convention on the High Seas²⁴. It is likely that some provisions of that Convention will need some modification in the light of the conclusions reached by this Conference. However, it is the view of the sponsors that the principles and provisions contained in the Convention on the High Seas are otherwise valid, must remain in force for areas beyond the territorial sea, and should be incorporated in any new comprehensive convention on the law of the sea adopted by this Conference.

Meanwhile the sponsors wish to propose additions to the Convention on the High Seas not directly related to the other matters under discussion at this Conference. These additions are contained in the draft articles set out below.

(The numbering of these articles corresponds to that of relevant articles in the 1958 Geneva Convention on the High Seas.)

Article 6 bis

1. Every State is obliged effectively to exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular, the flag State shall, in addition to its obligations under article 10 below, take the following action in respect of ships flying its flag:

(a) Maintain a register of shipping containing the names and particulars of ships flying its flag;

(b) Cause each such ship, before registration and thereafter at the intervals prescribed by international regulations, to be surveyed by a qualified surveyor of ships;

(c) Ensure that each such ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size and equipment of the ship;

(d) Ensure that each such ship has on board adequate charts, nautical publications and navigational equipment and instruments appropriate for the safe navigation of the ship;

(e) Cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State, or serious damage to shipping or installations of another State or to the marine environment;

(f) Assume jurisdiction under its municipal law over each such ship and over the master, officers and crew in respect of administrative, technical and social matters concerning the ship; and

(g) Take the necessary measures to ensure that the master and officers are fully conversant with and are required to observe the appropriate applicable international regulations concerning the safety of life at sea, the prevention and control of marine pollution, the prevention of collisions and the maintenance of communications by radio.

Without prejudice to paragraph 1 of this article, the requirements of this paragraph do not apply to ships or boats which are excluded from generally accepted international regulations on account of their small size.

3. The flag State, in taking measures required under paragraph 2 above, shall conform to generally accepted international regulations, procedures and practices.

4. A State which has reasonable grounds to suspect that proper jurisdiction and control has not been exercised in accordance with this Convention may report the facts to the flag State and request it to investigate the matter further. Upon receiving such a request, the flag State shall investigate the matter, take any action necessary to remedy the situation and notify the requesting State of the action taken.

5. The flag State shall co-operate in the conduct of any inquiry held in another State into any marine casualty or incident of navigation causing loss of life or serious injury to nationals or damage to ships or other installations of that other State, or to the marine environment.

Article 10²⁵

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard *inter alia* to:

(a) The use of signals, the maintenance of communications and the prevention of collisions;

(b) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments;

(c) The construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

3. A State which has reasonable grounds for suspecting that such measures have not been taken may report the facts to the flag State and request it to investigate the matter further. Upon receiving such a request, the flag State shall investigate the matter, take any action necessary to remedy the situation and notify the requesting State of the action taken.

²⁴United Nations, *Treaty Series*, vol. 450, p. 82.

²⁵The close relationship between articles 6 bis and 10 might enable them to be combined at a later stage, if this were considered desirable.