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(Text presented by the Chairman of the Second Committee)

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INTRODUCTORY NOTE

1. The Conference, at its 55th meeting on 18 April 1975, decided that the chairmen of the three main committees should each prepare a single negotiating text covering the subjects entrusted to his committee. In compliance with this decision, Ambassador Galindo Pohl, the previous Chairman of the Second Committee, submitted a text contained in part II of document A/CONF.62/WP.8/1.¹⁰

¹⁰ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV (United Nations publication, Sales No. E. 75.V.10).

2. At its 57th meeting on 15 March 1976, the Conference established guidelines for the work during its fourth session. In accordance with these guidelines, the Second Committee decided, at its 49th meeting on 16 March 1976, to study the informal single negotiating text, article by article, to determine, through a process of collective discussion, to what extent the text served the purposes for which it was intended. Upon the conclusion of this process, I was to produce a revised text, reflecting the results in the most appropriate manner.

3. The present text was prepared in compliance with that decision of the Committee.

4. I began my task following consideration of the text by the Committee in the course of 53 informal meetings, during which more than 3700 interventions were made. The participation in these meetings was very large. As a rule, over 120 of the 149 delegations participating in this session were represented. My first conclusion upon analyzing that discussion was that the text served well as a basis for negotiations in the Committee. In this respect, the Committee is indebted to Ambassador Galindo Pohl for the successful manner in which he accomplished his mandate.

5. The guiding principle in revising the single text was to make such changes as would make the text conform more to the views of delegations, as expressed during discussion in the Committee. In my opinion, very few of the over one thousand amendments proposed during the session would achieve the purpose of making the text a more adequate instrument for the fulfilment of the final objective of the Conference.

6. Early in its work the Committee agreed to follow "a rule of silence", whereby delegations would refrain from speaking on an article if they were essentially in agreement with the single text. Silence on amendments would be interpreted as lack of support for such amendments. The rule was to be applied flexibly and was not intended to result in any arithmetic calculations or be taken as a form of indicative vote. In my interpretation of the effect of this rule, I took into account the fact that with regard to certain issues, only those delegations most directly involved would normally participate in the discussion. Nevertheless, the rule allowed a general classification of the issues before the Committee.

7. By far the largest category of articles consisted of those to which no amendments commanding other than minimal support were introduced. It was clear that these should be retained as they were in the single negotiating text.

8. A second group consisted of articles where there was a clear trend favouring the inclusion of a particular amendment or where I was given a mandate to make a change within agreed limits.

9. A third category consisted of articles dealing with issues which could be identified, on the basis of extensive discussion, as those on which negotiations were most needed. My response to these issues varied according to my assessment of the stage reached in the negotiations. In certain cases, I felt I could suggest a compromise solution. In other cases, I considered that negotiations would be advanced if I were to at least point the way to an eventual solution. In still other cases, I felt that while there may be a need for a change in the single negotiating text, any modifications to the text might prove counterproductive in the search for a solution.

10. I think it is necessary to set out here, the elements of my analysis on certain issues which fell within this third category.

11. On the question of the rights of land-locked States and certain developing coastal States in the exploitation of the resources of the exclusive economic zone, I made no major changes. Despite the fact that a great amount of effort was devoted in the special interest group and in other informal groups dealing with the issue, I was offered no clear guidance on possible changes. No single proposal commanded significant support. I consider that any major change in the relevant provisions could jeopardize any further negotiations which might take place.

12. On the issue of delimitation of the exclusive economic zone and the continental shelf between adjacent or opposite

States an extensive exchange of views took place. A close study of the discussion, bearing in mind the rule of silence, revealed broad support for the thrust of the article in the single negotiating text (art. 62). However, paragraph 3 of former articles 61 and 70 posed a problem. Since the Conference may not adopt a compulsory jurisdictional procedure for the settlement of delimitation disputes, I felt that the reference to the median or equidistant line as an interim solution might not have the intended effect of encouraging agreements. In fact such reference might defeat the main purport of the article as set out in paragraph 1. Nonetheless, the need for an interim solution was evident. The solution was, in my opinion, to propose wording in paragraph 3 which linked it more closely to the principles in paragraph 1.

13. On the definition of the continental shelf I was sympathetic to proposals that the outer limit of the continental margin need to be precisely defined, particularly since the definition contained in the single negotiating text commanded significant support. However, since the proposals on such a precise limit were of a very technical nature and were in fact presented to the Committee in detail for the first time, I did not consider it appropriate to include such a definition at this stage. At the next session, a group of experts could perhaps be convened to give more exposure to this question.

14. The matter on which the Committee was perhaps the most divided was whether or not the exclusive economic zone should be included in the definition of the high seas. I felt initially that I should at least point the way to a compromise solution, giving tangible recognition in some manner to my opinion that an accommodation could be found.

15. However, upon more closely analyzing the discussion, I decided that to change the text now might be counterproductive, in the sense that it could upset the balance implicit in the single negotiating text.

16. It was perhaps unfortunate that the issue was addressed in terms of the definition of the high seas in article 75. There could be little debate as to which of the provisions in the chapter on the high seas apply in the exclusive economic zone, whether included in the definition of high seas or not.

17. Nor is there any doubt that the exclusive economic zone is neither the high seas nor the territorial sea. It is a zone *sui generis*.

18. As has often been pointed out, the matter should be addressed in terms of the "residual rights". In simple terms, the rights as to resources belong to the coastal State and, in so far as such rights are not infringed, all other States enjoy the freedoms of navigation and communication. In fact, this is specified in general terms in article 46, when read in conjunction with articles 44 and 47. Many had thought that these provisions dealt adequately with the matter. My original intention to point the way to a compromise solution would have related closely to these provisions and I would encourage a reorientation of the discussion around these articles.

19. As a result, while the article on the definition of the high seas has not been changed, I hope it is clear from these comments that I have given this controversial issue careful consideration.

20. The article dealing with territories under foreign occupation or colonial domination resulted in a long debate in the Committee. After reflecting on the debate I did not feel that I should make either major additions to or deletions from the existing text, except to redraft paragraph 2 in less absolute terms. On the other hand, it must be recognized that the article raises issues which go beyond the scope of the law of the sea. By placing it separately as a transitional provision, I adopted a solution which would not in any way imply that the

matters dealt with in the provision are permanent and immutable in nature.

21. On the issue of enclosed or semi-enclosed seas, I have responded to expressions of dissatisfaction with the provisions in the single negotiating text by making less mandatory the co-ordination of activities in such seas. Consequently, I decided not to make the definition of such seas more restrictive.

22. We have begun, at least, the process of co-ordination of the work of the three Committees. In certain cases, I have adopted suggestions based on solutions being formulated in the Third Committee.

23. I have also made such technical and drafting changes as would improve the text.

24. The revised text and the process which preceded and conditioned its preparation must be seen as an important stage in the work of the Conference towards the fulfilment of its mandate. The discussion in the Committee was in every respect complete. All items were given the same status and opportunities were afforded for the expression of all views.

25. On the basis of the discussion the issues on which a final solution has been reached are apparent. Similarly, those issues have been identified on which further efforts at reaching a consensus would be justified.

26. The present text does not necessarily represent the views of my delegation. I have prepared it in my capacity as an officer of the Conference and not as representative of my country.

(Signed) ANDRÉS AGUILAR M.
Chairman, Second Committee

* * *

Chapter I: The territorial sea and the contiguous zone

SECTION 1. GENERAL

Article 1

Juridical status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil

1. The sovereignty of a coastal State extends beyond its land territory and internal waters, and in the case of an archipelagic State, its archipelagic waters, over an adjacent belt of sea described as the territorial sea.

2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

3. The sovereignty over the territorial sea is exercised subject to the present Convention and to other rules of international law.

SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 2

Breadth of the territorial sea

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with the present Convention.

Article 3

Outer limit of the territorial sea

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 4

Normal baseline

Except where otherwise provided in the present Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 5

Reefs

In the case of islands situated on atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea is the seaward low-water line of the reef, as shown by the appropriate symbol on official charts.

Article 6

Straight baselines

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, such baselines shall remain effective until changed by the coastal State in accordance with the present Convention.

3. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.

5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.

6. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.

Article 7

Internal waters

1. Except as provided in Chapter VII, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article 6 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in the present Convention shall exist in those waters.

Article 8

Mouths of rivers

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

Article 9

Bays

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of the present Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 miles a straight baseline of 24 miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 6 is applied.

Article 10

Ports

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast. Offshore installations and artificial islands shall not be considered as permanent harbour works.

Article 11

Roadsteads

Roadsteads which are normally used for the loading, unloading, and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea.

Article 12

Low-tide elevations

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 13

Combination of methods for determining baselines

The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions.

Article 14

Delimitation of the territorial sea between States with opposite or adjacent coasts

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 territorial sea 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 each of the two States is measured. This article does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

Article 15

Charts and lists of geographical co-ordinates

1. The baselines for measuring the breadth of the territo-

rial sea determined in accordance with articles 6, 8 and 9, or the limits derived therefrom, and the lines of delimitation drawn in accordance with articles 11 and 14, shall be shown on charts of a scale or scales adequate for determining them. Alternatively, a list of geographical co-ordinates of points, specifying the geodetic datum, may be substituted.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA

SUBSECTION A. RULES APPLICABLE TO ALL SHIPS

Article 16

Right of innocent passage

Subject to the present Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

Article 17

Meaning of passage

1. Passage means navigation through the territorial sea for the purpose of:

(a) Traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or

(b) Proceeding to or from internal waters or a call at such a roadstead or port facility.

2. Passage shall be continuous and expeditious. However, 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 distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Article 18

Meaning of innocent passage

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 the present Convention 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 of the following activities:

(a) Any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;

(b) Any exercise or practice with weapons of any kind;

(c) Any act aimed at collecting information to the prejudice of the defence or security of the coastal State;

(d) Any act of propaganda aimed at affecting the defence or security of the coastal State;

(e) The launching, landing or taking on board of any aircraft;

(f) The launching, landing or taking on board of any military device;

(g) The embarking or disembarking of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary regulations of the coastal State;

(h) Any act of wilful and serious pollution, contrary to the present Convention;

(i) Any fishing activities;

(j) The carrying out of research or survey activities;

(k) Any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;

(l) Any other activity not having a direct bearing on passage.

Article 19

Submarines and other underwater vehicles

In the territorial sea, submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Article 20

Laws and regulations of the coastal State relating to innocent passage

1. The coastal State may make laws and regulations, in conformity with the provisions of the present Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:

(a) The safety of navigation and the regulation of marine traffic;

(b) The protection of navigational aids and facilities and other facilities or installations;

(c) The protection of cables and pipelines;

(d) The conservation of the living resources of the sea;

(e) The prevention of infringement of the fisheries regulations of the coastal State;

(f) The preservation of the environment of the coastal State and the prevention of pollution thereof;

(g) Marine scientific research and hydrographic surveys;

(h) The prevention of infringement of the customs, fiscal, immigration, or sanitary regulations of the coastal State.

2. Such laws and regulations shall not apply to or affect the design, construction, manning or equipment of foreign ships or matters regulated by generally accepted international rules unless specifically authorized by such rules.

3. The coastal State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.

Article 21

Sea lanes and traffic separation schemes in the territorial sea

1. The coastal State may, where necessary having regard to the safety of navigation, require foreign ships exercising the right of innocent passage through its territorial sea to use such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships.

2. In particular, tankers, nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to confine their passage to such sea lanes.

3. In the designation of sea lanes and the prescription of traffic separation schemes under this article the coastal State shall take into account:

(a) The recommendations of competent international organizations;

(b) Any channels customarily used for international navigation;

(c) The special characteristics of particular ships and channels; and

(d) The density of traffic.

4. The coastal State shall clearly indicate such sea lanes and traffic separation schemes in charts to which due publicity shall be given.

Article 22

Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances

Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships by international agreements.

Article 23

Duties of the coastal State

1. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea except in accordance with the present Convention. In particular, in the application of the present Convention or of any laws or regulations made under the present Convention, the coastal State shall not:

(a) Impose requirements on foreign ships which have the practical effect of denying or impairing the right of innocent passage; or

(b) Discriminate in form or in fact against the ships of any State or against ships carrying cargoes to, from or on behalf of any State.

2. The coastal State shall give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

Article 24

Rights of protection of the coastal State

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.

3. The coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the 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 duly published.

Article 25

Charges which may be levied upon foreign ships

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

SUBSECTION B. RULES APPLICABLE TO MERCHANT SHIPS AND GOVERNMENT SHIPS OPERATED FOR COMMERCIAL PURPOSES

Article 26

Criminal jurisdiction on board a foreign ship

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any 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;

(b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea;

(c) If the assistance of the local authorities has been requested by the captain of the ship or by the diplomatic agent or consular officer of the flag State; or

(d) If such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

2. The above provisions do not affect the right of the coastal State 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, the coastal State shall, if the captain so requests, advise the diplomatic agent or consular officer of the flag State before taking any steps, and shall facilitate contact between such agent or officer and the ships's crew. In cases of emergency 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 any investigation in connexion with any 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 internal waters.

Article 27

Civil jurisdiction in relation to foreign ships

1. The coastal State should 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 voyage through the waters of the coastal State.

3. Paragraph 2 is 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 any civil proceedings, a foreign ship lying in the territorial sea or passing through the territorial sea after leaving internal waters.

SUBSECTION C. RULES APPLICABLE TO WARSHIPS AND OTHER GOVERNMENT SHIPS OPERATED FOR NON-COMMERCIAL PURPOSES

Article 28

Definition of warships

For the purposes of the present Convention, "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the Government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

Article 29

Non-observance by warships of the laws and regulations of the coastal State

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

Article 30

Responsibility of the flag State for damage caused by a warship or other government ships operated for non-commercial purposes

The flag State shall bear international responsibility for any loss or damage to the coastal State resulting from the

non-compliance by a warship or other government ship operated for non-commercial purposes with the laws and regulations of the coastal State concerning passage through the territorial sea or with the provisions of the present Convention or other rules of international law.

Article 31

Immunities of warships and other government ships operated for non-commercial purposes

With such exceptions as are contained in subsection A and in articles 29 and 30, nothing in the present Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

SECTION 4. CONTIGUOUS ZONE

Article 32

Contiguous zone

1. In a zone contiguous to its territorial sea, described as the contiguous zone, 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 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Chapter II: Straits used for international navigation

SECTION 1. GENERAL

Article 33

Juridical status of waters forming straits used for international navigation

1. The régime of passage through straits used for international navigation established in this Chapter shall not in other respects affect the status of the waters forming such straits or the exercise by the States bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil.

2. The sovereignty or jurisdiction of the States bordering the straits is exercised subject to this Chapter and to other rules of international law.

Article 34

Scope of this Chapter

Nothing in this Chapter shall affect:

(a) Any areas of internal waters within a strait, except where the establishment of a straight baseline in accordance with article 6 has the effect of enclosing as internal waters areas which had not previously been considered as such;

(b) The status of the waters beyond the territorial seas of States bordering straits as exclusive economic zones or high seas; or

(c) The legal régime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits.

Article 35

High seas routes or routes through exclusive economic zones through straits used for international navigation

This Chapter does not apply to a strait used for international navigation if a high seas route or a route through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics exists through the strait.

SECTION 2. TRANSIT PASSAGE

Article 36

Scope of this section

This section applies to straits which are used for international navigation between one area of the high seas or an exclusive economic zone and another area of the high seas or an exclusive economic zone.

Article 37

Right of transit passage

1. In straits referred to in article 36, all ships and aircraft enjoy the right of transit passage, which shall not be impeded, except that if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if a high seas route or a route in an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics exists seaward of the island.

2. Transit passage is the exercise in accordance with this Chapter of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one area of the high seas or an exclusive economic zone and another area of the high seas or an exclusive economic zone. However, the requirement of continuous and expeditious transit does not preclude passage through the strait for the purpose of entering, leaving or returning from a State bordering the strait, subject to the conditions of entry to that State.

3. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of the present Convention.

Article 38

Duties of ships and aircraft during their passage

1. Ships and aircraft, while exercising the right of transit passage, shall:

- (a) Proceed without delay through or over the strait;
- (b) Refrain from any threat or use of force against the sovereignty, territorial integrity or political independence of States bordering straits, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
- (c) Refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by *force majeure* or by distress;
- (d) Comply with other relevant provisions of this Chapter.

2. Ships in transit shall:

(a) Comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;

(b) Comply with generally accepted international regulations, procedures and practices for the prevention and control of pollution from ships.

3. Aircraft in transit shall:

(a) Observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft; State aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;

(b) At all times monitor the radio frequency assigned by the appropriate internationally designated air traffic control authority or the appropriate international distress radio frequency.

Article 39

Sea lanes and traffic separation schemes in straits used for international navigation

1. In conformity with this Chapter, States bordering straits may designate sea lanes and prescribe traffic separation schemes for navigation in straits where necessary to promote the safe passage of ships.

2. Such States may, when circumstances require, after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by them.

3. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

4. Before designating or substituting sea lanes or prescribing or substituting traffic separation schemes, States bordering straits shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the States bordering the straits, after which the States may designate, prescribe or substitute them.

5. In respect of a strait where sea lanes or traffic separation schemes are proposed through the waters of two or more States bordering the strait, the States concerned shall co-operate in formulating proposals in consultation with the organization.

6. States bordering straits shall clearly indicate all sea lanes and traffic separation schemes designated or prescribed by them on charts to which due publicity shall be given.

7. Ships in transit shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

Article 40

Laws and regulations of States bordering straits relating to transit passage

1. Subject to the provisions of this section, States bordering straits may make laws and regulations relating to transit passage through straits, in respect of all or any of the following:

- (a) The safety of navigation and the regulation of marine traffic, as provided in article 39;
- (b) The prevention of pollution by giving effect to applica-

ble international regulations regarding the discharge of oil, oily wastes and other noxious substances in the strait;

(c) With respect to fishing vessels, the prevention of fishing, including the stowage of fishing gear;

(d) The taking on board or putting overboard of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary regulations of States bordering straits.

2. Such laws and regulations shall not discriminate in form or fact amongst foreign ships, nor in their application have the practical effect of denying, hampering or impairing the right of transit passage as defined in this section.

3. States bordering straits shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of transit passage shall comply with such laws and regulations.

5. The flag State of a ship or aircraft entitled to sovereign immunity which acts in a manner contrary to such laws and regulations or other provisions of this Chapter shall bear international responsibility for any loss or damage which results to States bordering straits.

Article 41

Navigation and safety aids and other improvements and the prevention and control of pollution

User States and States bordering a strait should by agreement co-operate:

(a) In the establishment and maintenance in a strait of necessary navigation and safety aids or other improvements in aid of international navigation; and

(b) For the prevention and control of pollution from ships.

Article 42

Duties of States bordering straits

States bordering straits shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which it has knowledge. There shall be no suspension of transit passage.

SECTION 3. INNOCENT PASSAGE

Article 43

Innocent passage

1. The régime of innocent passage, in accordance with section 3 of Chapter I, shall apply in straits used for international navigation:

(a) Excluded under paragraph 1 of article 37 from the application of the régime of transit passage; or

(b) Between one area of the high seas or an exclusive economic zone and the territorial sea of a foreign State.

2. There shall be no suspension of innocent passage through such straits.

Chapter III: The exclusive economic zone

Article 44

Rights, jurisdiction and duties of the coastal State in the exclusive economic zone

1. In an area beyond and adjacent to its territorial sea, described as the exclusive economic zone, the coastal State has:

(a) Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the bed and subsoil and the superjacent waters;

(b) Exclusive rights and jurisdiction with regard to the establishment and use of artificial islands, installations and structures;

(c) Exclusive jurisdiction with regard to:

(i) Other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and

(ii) Scientific research;

(d) Jurisdiction with regard to the preservation of the marine environment, including pollution control and abatement;

(e) Other rights and duties provided for in the present Convention.

2. In exercising its rights and performing its duties under the present Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States.

3. The rights set out in this article with respect to the bed and subsoil shall be exercised in accordance with Chapter IV.

Article 45

Breadth of the exclusive economic zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 46

Rights and duties of other States in the exclusive economic zone

1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of the present Convention, the freedoms of navigation and overflight and of the laying of submarine cables and pipelines and other internationally lawful uses of the sea related to navigation and communication.

2. Articles 77 to 103 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Chapter.

3. In exercising their rights and performing their duties under the present Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations enacted by the coastal State in conformity with this Chapter and other rules of international law.

*Article 47**Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the exclusive economic zone*

In cases where the present Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

*Article 48**Artificial islands, installations and structures in the exclusive economic zone*

1. In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:

- (a) Artificial islands;
- (b) Installations and structures for the purposes provided for in article 44 and other economic purposes;
- (c) Installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused must be entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

5. The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the appropriate international organizations.

6. All ships must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones. Due notice shall be given of the extent of safety zones.

7. Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

8. Artificial islands, installations and structures have no territorial sea of their own and their presence does not affect the delimitation of the territorial sea or of other zones of coastal State jurisdiction or of the continental shelf.

*Article 49**Research*

The consent of the coastal State shall be obtained in respect of any research concerning the exclusive economic zone and undertaken there, as provided in Chapter . . . (Marine scientific research)

*Article 50**Conservation of the living resources*

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

2. The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and relevant subregional, regional and global organizations shall co-operate to this end.

3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing countries, and taking into account fishing patterns, the interdependence of stocks and any generally recommended subregional, regional or global minimum standards.

4. In establishing such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

5. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through subregional, regional and global organizations where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

*Article 51**Utilization of the living resources*

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to article 50.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch.

3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 58 and 59, the requirements of developing countries in the subregion or region in harvesting part of the surplus and the need to minimize economic

dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the regulations of the coastal State. These regulations shall be consistent with the present Convention and may relate, *inter alia*, to the following:

(a) Licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;

(b) Determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;

(c) Regulating seasons and areas of fishing, the types, sizes and amount of gear, and the numbers, sizes and types of fishing vessels that may be used;

(d) Fixing the age and size of fish and other species that may be caught;

(e) Specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;

(f) Requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

(g) The placing of observers or trainees on board such vessels by the coastal State;

(h) The landing of all or any part of the catch by such vessels in the ports of the coastal State;

(i) Terms and conditions relating to joint ventures or other co-operative arrangements;

(j) Requirements for training personnel and transfer of fisheries technology, including enhancement of the coastal State's capability of undertaking fisheries research;

(k) Enforcement procedures.

5. Coastal States shall give due notice of conservation and management regulations.

Article 52

Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, these States shall seek either directly or through appropriate subregional or regional organizations to agree upon the measures necessary to co-ordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Chapter.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek

either directly or through appropriate subregional or regional organizations to agree upon the measures necessary for the conservation of these stocks in the adjacent area.

Article 53

Highly migratory species

1. The coastal State and other States whose nationals fish in the region for the highly migratory species listed in the annex shall co-operate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions where no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall co-operate to establish such an organization and participate in its work.

2. The provisions of paragraph 1 apply in addition to the other provisions of this Chapter.

Article 54

Marine mammals

Nothing in the present Convention restricts the right of a coastal State or international organization, as appropriate, to prohibit, regulate and limit the exploitation of marine mammals. State shall co-operate either directly or through appropriate international organizations with a view to the protection and management of marine mammals.

Article 55

Anadromous stocks

1. States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters landwards of the outer limits of its exclusive economic zone and for fishing provided for in subparagraph (b) of paragraph 3. The State of origin may, after consultation with other States fishing these stocks, establish total allowable catches for stocks originating in its rivers.

3. (a) Fisheries for anadromous stocks shall be conducted only in the waters landwards of the outer limits of exclusive economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin.

(b) The State of origin shall co-operate in minimizing economic dislocation in such other States fishing these stocks, taking into account the normal catch and the mode of operations of such States, and all the areas in which such fishing has occurred.

(c) States referred to in subparagraph (b), participating by agreement with the State of origin in measures to renew anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvesting of stocks originating in its rivers.

(d) Enforcement of regulations regarding anadromous stocks beyond the exclusive economic zone shall be by agreement between the State of origin and the other States concerned.

4. In cases where anadromous stocks migrate into or through the waters landwards of the outer limits of the exclusive economic zone of a State other than the State of origin, such State shall co-operate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing these stocks shall make arrangements for the implementation of the provisions of this article, where appropriate, through regional organizations.

Article 56

Catadromous species

1. A coastal State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of these species and shall ensure the ingress and egress of migrating fish.

2. Harvesting of catadromous species shall be conducted only in waters in respect of which the State mentioned in paragraph 1 exercises sovereign rights over the living resources and, when conducted in the exclusive economic zone, shall be subject to the provisions of the present Convention concerning fishing in the zone.

3. In cases where catadromous fish migrate through the waters of another State or States, whether as juvenile or maturing fish, the management, including harvesting, of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the State or States concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 57

Sedentary species

This Chapter does not apply to sedentary species as defined in paragraph 4 of article 65.

Article 58

Right of land-locked States

1. Land-locked States shall have the right to participate in the exploitation of the living resources of the exclusive economic zones of adjoining coastal States on an equitable basis, taking into account the relevant economic and geographical circumstances of all the States concerned. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements. Developed land-locked States shall, however, be entitled to exercise their rights only within the exclusive economic zones of adjoining developed coastal States.

2. This article is subject to the provisions of articles 50 and 51.

3. Paragraph 1 is without prejudice to arrangements agreed upon in regions where the coastal States may grant to land-locked States of the same region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 59

Right of certain developing coastal States in a subregion or region

1. Developing coastal States which are situated in a subregion or region whose geographical peculiarities make such States particularly dependent for the satisfaction of the nutritional needs of their populations upon the exploitation of the living resources in the exclusive economic zones of their neighbouring States and developing coastal States which can claim no exclusive economic zones of their own shall have the right to participate, on an equitable basis, in the exploitation of living resources in the exclusive economic zones of other States in a subregion or region.

2. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, taking into account the relevant economic and geographical circumstances of all the States concerned, including the need to avoid effects detrimental to the fishing communities or to the fishing industries of the States in whose zones the right of participation is exercised.

3. This article is subject to the provisions of articles 50 and 51.

Article 60

Restrictions on transfer of rights

1. Rights provided under articles 58 and 59 to exploit living resources cannot without the express consent of the coastal State be transferred to third States or their nationals by lease or license, by establishing joint collaboration ventures or by any other arrangements.

2. Paragraph 1 does not preclude States from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights provided under articles 58 and 59.

Article 61

Enforcement of laws and regulations of the coastal State

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations enacted by it in conformity with the present Convention.

2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.

3. Coastal State penalties for violations of fisheries regulations in the exclusive economic zone may not include imprisonment, in the absence of agreement to the contrary by the States concerned, or any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify, through appropriate channels, the flag State of the action taken and of any penalties subsequently imposed.

*Article 62**Delimitation of the exclusive economic zone between adjacent or opposite States*

1. The delimitation of the exclusive economic zone between adjacent or opposite States shall be effected by agreement in accordance with equitable principles, employing, where appropriate, the median or equidistant line, and taking account of all the relevant circumstances.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part . . . (Settlement of disputes).

3. Pending agreement or settlement, the States concerned shall make provisional arrangements, taking into account the provisions of paragraph 1.

4. For the purposes of the present Convention, "median or equidistant line" means the line every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

5. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

*Article 63**Charts and lists of geographical co-ordinates*

1. Subject to this Chapter, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 62 shall be shown on charts of a scale or scales adequate for determining them. Where appropriate, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Chapter IV: Continental shelf*Article 64**Definition of the continental shelf*

The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

*Article 65**Rights of the coastal State over the continental shelf*

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in this Chapter consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

*Article 66**Superjacent waters and air space*

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or the air space above those waters.

*Article 67**Submarine cables and pipelines on the continental shelf*

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.

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

3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.

4. Nothing in this Chapter affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connexion with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

5. When laying submarine cables or pipelines, States shall pay due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

*Article 68**Artificial islands, installations and structures on the continental shelf*

Article 48 applies *mutatis mutandis* to artificial islands, installations and structures on the continental shelf.

*Article 69**Drilling on the continental shelf*

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

*Article 70**Payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles*

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living

resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be . . . per cent of the value or volume of production at the site. The rate shall increase by . . . per cent for each subsequent year until the tenth year and shall remain at . . . per cent thereafter. Production does not include resources used in connexion with exploitation.

3. The International Authority shall determine if and to what extent developing countries shall be obliged to make payments or contributions provided for in paragraphs 1 and 2.

4. The payments or contributions shall be made to the International Authority on terms and procedures to be agreed upon with the Authority in each case. The International Authority shall distribute these payments and contributions on the basis of equitable sharing criteria, taking into account the interests and needs of developing countries, particularly the least developed amongst them.

Article 71

Delimitation of the continental shelf between adjacent or opposite States

1. The delimitation of the continental shelf between adjacent or opposite States shall be effected by agreement in accordance with equitable principles, employing, where appropriate, the median or equidistant line, and taking account of all the relevant circumstances.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part . . . (Settlement of disputes).

3. Pending agreement or settlement, the States concerned shall make provisional arrangements, taking into account the provisions of paragraph 1.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement.

Article 72

Charts and lists of geographical co-ordinates

1. Subject to this Chapter the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 71 shall be shown on charts of a scale or scales adequate for determining them. Where appropriate, lists of geographical co-ordinates of points, specifying the geodetic datum may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Article 73

Research

The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there, as provided in Chapter . . . (Marine scientific research).

Article 74

Tunnelling

This Chapter does not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling, irrespective of the depth of water above the subsoil.

Chapter V: High seas

SECTION I. GENERAL

Article 75

Definition of the high seas

The term "high seas" as used in the present Convention means all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.

Article 76

Freedom of the high seas

1. The high seas are open to all States, whether coastal or land-locked. Accordingly, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by the present Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:

- (a) Freedom of navigation;
- (b) Freedom of overflight;
- (c) Freedom to lay submarine cables and pipelines, subject to Chapter IV;
- (d) Freedom to construct artificial islands and other installations permitted under international law, subject to Chapter IV;
- (e) Freedom of fishing, subject to the conditions laid down in section 2;
- (f) Freedom of scientific research, subject to Chapters IV and . . . (Marine scientific research).

2. These freedoms shall be exercised by all States, with due consideration for the interests of other States in their exercise of the freedom of the high seas, and also with due consideration for the rights under the present Convention with respect to activities in the International Area.

Article 77

Reservation of the high seas for peaceful purposes

The high seas shall be reserved for peaceful purposes.

Article 78

Right of navigation

Every State, whether coastal or land-locked, has the right to sail ships under its flag on the high seas.

Article 79

Nationality of ships

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. There must exist a genuine link between the State and the ship.

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

Article 80

Status of ships

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in the present Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 81

Ships flying the flag of the United Nations, its specialized agencies and the International Atomic Energy Agency

The preceding articles do not prejudice the question of ships employed on the official service of the United Nations, its specialized agencies or the International Atomic Energy Agency, flying the flag of the Organization.

Article 82

Duties of the flag State

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

2. In particular every State shall:

(a) Maintain a register of shipping containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and

(b) Assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

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

(a) The construction, equipment and seaworthiness of ships;

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

(c) The use of signals, the maintenance of communications and the prevention of collisions.

4. Such measures shall include those necessary to ensure:

(a) That each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;

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

(c) That the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention and control of marine pollution, and the maintenance of communications by radio.

5. In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.

6. A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State. Upon receiving such a report, the flag State shall investigate the matter and, if appropriate, take any action necessary to remedy the situation.

7. Each State shall 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. The flag State and the other State shall cooperate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation.

Article 83

Immunity of warships on the high seas

Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

Article 84

Immunity of ships used only on government non-commercial service

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 85

Penal jurisdiction in matters of collision

1. In the event of a collision or any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such person except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or licence 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.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 86

Duty to render assistance

1. Every State shall require 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) To render assistance to any person found at sea in danger of being lost;

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

(c) After a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Article 87

Prohibition of the transport of slaves

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall, *ipso facto*, be free.

Article 88

Duty to co-operate in the repression of piracy

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 89

Definition of piracy

Piracy consists of any of the following acts:

(a) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) Any act of inciting or of intentionally facilitating an act described in subparagraphs (a) and (b).

Article 90

Piracy by a warship, government ship or government aircraft whose crew has mutinied

The acts of piracy, as defined in article 89, 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 ship.

Article 91

Definition of a pirate ship or aircraft

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 89. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 92

Retention or loss of the nationality of a pirate ship or aircraft

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 93

Seizure of a pirate ship or aircraft

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 94

Liability for seizure without adequate grounds

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

Article 95

Ships and aircraft which are entitled to seize on account of piracy

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 96

Illicit traffic in narcotic drugs or psychotropic substances

1. All States shall co-operate in the suppression of illicit traffic in narcotic drugs and psychotropic substances by ships on the high seas contrary to international conventions.

2. Any State which has reasonable grounds for believing that a vessel flying its flag is engaged in illicit traffic in narcotic drugs or psychotropic substances may request the co-operation of other States to suppress such traffic.

Article 97

Unauthorized broadcasting from the high seas

1. All States shall co-operate in the suppression of unauthorized broadcasting from the high seas.

2. Any person engaged in unauthorized broadcasting from the high seas may be prosecuted before the court of the flag State of the vessel, the place of registry of the installation, the State of which the person is a national, any place where the transmissions can be received or any State where authorized radio communications is suffering interference.

3. On the high seas, a State having jurisdiction in accordance with paragraph 2 may, in conformity with article 98, arrest any person or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.

4. For the purposes of the present Convention, "unauthorized broadcasting" means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.

Article 98

Right of visit

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters on the high seas a foreign ship, other than a ship entitled to complete immunity in accordance with articles 83 and 84, is not justified in boarding her unless there is reasonable ground for suspecting:

(a) That the ship is engaged in piracy;

(b) That the ship is engaged in the slave trade;

(c) That the ship is engaged in unauthorized broadcasting and the warship has jurisdiction under article 97;

(d) That the ship is without nationality; or

(e) That, though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in paragraph 1, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat, under the command of an officer, to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

4. These provisions shall apply *mutatis mutandis* to military aircraft.

5. These provisions shall also apply to any other duly authorized ships or aircraft clearly marked and identifiable as being on government service.

Article 99

Right of hot pursuit

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 32, 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 shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with the present Convention to the exclusive economic zone or the continental shelf, including such safety zones.

3. 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.

4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be, within the contiguous zone or the exclusive economic zone or above the continental shelf. 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.

5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and specially authorized to that effect.

6. Where hot pursuit is effected by an aircraft:

(a) The provisions of paragraphs 1 to 4 shall apply *mutatis mutandis*;

(b) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft 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 outside the territorial sea 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 or other aircraft or ships which continue the pursuit without interruption.

7. 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 exclusive economic zone or the high seas, if the circumstances rendered this necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

*Article 100**Right to lay submarine cables and pipelines*

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.

2. Paragraph 5 of article 67 applies to such cables and pipelines.

*Article 101**Breaking or injury of a submarine cable or pipeline*

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction 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 pipeline or high-voltage power cable shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it 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 102**Breaking or injury by owners of a submarine cable or pipeline of another submarine cable or pipeline*

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 of the repairs.

*Article 103**Indemnity for loss incurred in avoiding injury to a submarine cable or pipeline*

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.

SECTION 2. MANAGEMENT AND CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS

*Article 104**Right to fish on the high seas*

All States have the right for their nationals to engage in fishing on the high seas subject to:

- (a) Their treaty obligations;
- (b) The rights and duties as well as the interests of coastal States provided for, *inter alia*, in paragraph 2 of article 52 and articles 53 to 56; and
- (c) The provisions of this section.

*Article 105**Duty of States to adopt with respect to their nationals measures for the conservation of the living resources of the high seas*

All States have the duty to adopt, or to co-operate with other States in adopting, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.

*Article 106**Co-operation of States in the management and conservation of living resources*

States shall co-operate with each other in the management and conservation of living resources in the areas of the high seas. States whose nationals exploit identical resources, or different resources in the same area, shall enter into negotiations with a view to adopting the means necessary for the conservation of the living resources concerned. They shall, as appropriate, co-operate to establish subregional or regional fisheries organizations to this end.

*Article 107**Conservation of the living resources of the high seas*

1. In determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall:

(a) Adopt measures which are designed, on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing countries, and taking into account fishing patterns, the interdependence of stocks and any generally recommended subregional, regional or global minimum standards;

(b) Take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

2. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through subregional, regional and global organizations where appropriate and with participation by all States concerned.

3. States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State.

*Article 108**Marine mammals*

Article 54 also applies to the conservation and management of marine mammals in the high seas.

Chapter VI: Right of access of land-locked States to and from the sea and freedom of transit

Article 109

Use of terms

1. For the purposes of the present Convention:

(a) "Land-locked State" means a State which has no sea-coast;

(b) "Transit State" means a State, with or without a sea-coast, situated between a land-locked State and the sea through whose territory "traffic in transit" passes;

(c) "Traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;

(d) "Means of transport" means

(i) Railway rolling stock, sea, lake and river craft and road vehicles;

(ii) Where local conditions so require, porters and pack animals.

2. Land-locked States and transit States may, by agreement between them, include as means of transport pipelines and gas lines and means of transport other than those included in paragraph 1.

Article 110

Right of access to and from the sea and freedom of transit

1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in the present Convention including those relating to the freedom of the high seas and the principle of the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territories of transit States by all means of transport.

2. The terms and conditions for exercising freedom of transit shall be agreed between the land-locked States and the transit States concerned through bilateral, subregional or regional agreement, in accordance with the present Convention.

3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures to ensure that the rights provided for in this Chapter for land-locked States shall in no way infringe their legitimate interests.

Article 111

Exclusion of application of the most-favoured-nation clause

Provisions of the present Convention, as well as special agreements which regulate the exercise of the right of access to and from the sea, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

Article 112

Customs duties, taxes and other charges

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connexion with such traffic.

2. Means of transport in transit used by land-locked States shall not be subject to taxes, tariffs or charges higher than those levied for the use of means of transport of the transit State.

Article 113

Free zones and other customs facilities

For the convenience of traffic in transit, free zones or other customs facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

Article 114

Co-operation in the construction and improvement of means of transport

Where there are no means of transport in the transit States to give effect to the freedom of transit or where the existing means, including the port installations and equipment, are inadequate in any respect, transit States may request the land-locked States concerned to co-operate in constructing or improving them.

Article 115

Measures to avoid delays and difficulties in traffic in transit

1. Except in cases of *force majeure* all measures shall be taken by transit States to avoid delays in or restrictions on traffic in transit.

2. Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of land-locked States shall co-operate towards their expeditious elimination.

Article 116

Equal treatment in maritime ports

Ships flying the flag of land-locked States shall enjoy treatment equal to that accorded to other foreign ships in maritime ports.

Article 117

Grant of greater transit facilities

The present Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in the present Convention and which are agreed between States Parties to the present Convention or granted by a State Party. The present Convention also does not preclude such grant of greater facilities in the future.

Chapter VII. Archipelagic States

Article 118

Use of Terms

For the purposes of the present Convention:

(a) "Archipelagic State" means a State constituted wholly by one or more archipelagos and may include other islands;

(b) "Archipelago" means a group of islands, including parts of islands, inter-connecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

Article 119

Archipelagic baselines

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between one to one and nine to one.

2. The length of such baselines shall not exceed 80 nautical miles, except that up to one per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.

3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.

6. The archipelagic State shall clearly indicate such baselines on charts of a scale or scales adequate for determining them. The archipelagic State shall give due publicity to such charts and shall deposit a copy of each such chart with the Secretary-General of the United Nations.

7. If the drawing of such baselines encloses a part of the sea which has traditionally been used by an immediately adjacent neighbouring State for direct access and all forms of communication, including the laying of submarine cables and pipelines, between two or more parts of the territory of such State, the archipelagic State shall continue to recognize and guarantee such rights of direct access and communication.

8. For the purposes of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.

Article 120

Measurement of the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf

The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from the baselines drawn in accordance with article 119.

Article 121

Juridical status of archipelagic waters, of the air space over archipelagic waters and of their bed and subsoil

1. The sovereignty of an archipelagic State extends to the waters enclosed by the baselines, described as archipelagic waters, regardless of their depth or distance from the coast.

2. This sovereignty extends to the air space over the archipelagic waters, the bed and subsoil thereof, and the resources contained therein.

3. This sovereignty is exercised subject to this Chapter.

Article 122

Delimitation of internal waters

Within its archipelagic waters, the archipelagic State may draw closing lines for the delimitation of internal waters, in accordance with articles 8, 9 and 10.

Article 123

Existing agreements, traditional fishing rights and existing submarine cables

1. Without prejudice to article 121, archipelagic States shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions of the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

2. Archipelagic States shall respect existing submarine cables laid by other States and passing through their waters without making a landfall. Archipelagic States shall permit the maintenance and replacement of such cables upon receiving due notice of the location of such cables and the intention to repair or replace them.

Article 124

Right of innocent passage

1. Subject to article 125, ships of all States enjoy the right of innocent passage through archipelagic waters, in accordance with section 3 of Chapter I.

2. The archipelagic State may, without discrimination in form or in fact amongst foreign ships, suspend temporarily in specified areas of its archipelagic waters the 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 duly published.

Article 125

Right of archipelagic sea lanes passage

1. An archipelagic State may designate sea lanes and air routes suitable for the safe, continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic waters and the adjacent territorial sea.

2. All ships and aircraft enjoy the right of archipelagic sea lanes passage in such sea lanes and air routes.

3. Archipelagic sea lanes passage is the exercise in accordance with the present Convention of the rights of navigation and overflight in the normal mode for the purpose of continuous and expeditious transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

4. Such sea lanes and air routes shall traverse the archipelago and the adjacent territorial sea and shall include all normal passage routes used as routes for international navigation or overflight through the archipelago, and, within such routes, so far as ships are concerned, all normal navigational channels, provided that duplication of routes of similar convenience between the same entry and exit points shall not be necessary.

5. The width of a sea lane shall not be less than . . . nautical miles or . . . per cent of the distance between the nearest points on islands bordering the sea lane.

6. An archipelagic State which designates sea lanes under this article may also prescribe traffic separation schemes for the safe passage of ships through narrow channels in such sea lanes.

7. An archipelagic State may, when circumstances require, after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by it.

8. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

9. Before designating or substituting sea lanes or prescribing or substituting traffic separation schemes, an archipelagic State shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe or substitute them.

10. The archipelagic State shall clearly indicate all sea lanes and traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.

11. Ships in transit shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

12. If an archipelagic State does not designate sea lanes or air routes, the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.

Article 126

Duties of ships and aircraft during their passage, duties of the archipelagic State and laws and regulations of the archipelagic State relating to archipelagic sea lanes passage

Articles 38, 40 and 42 apply *mutatis mutandis* to archipelagic sea lanes passage.

Article 127

Research and survey activities

During their passage through archipelagic waters, foreign ships, including marine research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the archipelagic State.

Chapter VIII. Regime of Islands

Article 128

Régime of islands

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of the present Convention applicable to other land territory.

3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

Chapter IX: Enclosed or semi-enclosed seas

Article 129

Definition

For the purposes of this Chapter, "enclosed or semi-enclosed sea" means a gulf, basin, or sea surrounded by two or more States and connected to the open seas by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.

Article 130

Co-operation of States bordering enclosed or semi-enclosed seas

States bordering enclosed or semi-enclosed seas should co-operate with each other in the exercise of their rights and duties under the present Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

(a) To co-ordinate the management, conservation, exploitation and exploitation of the living resources of the sea;

(b) To co-ordinate the implementation of their rights and duties with respect to the preservation of the marine environment;

(c) To co-ordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;

(d) To invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.

Chapter X: Settlement of disputes

Article 131

Settlement of disputes

Disputes arising out of the interpretation or application of articles . . . shall be resolved in accordance with Part . . . (Settlement of disputes).

Transitional provision

1. The rights recognized or established by the present Convention to the resources of a territory whose people have not attained either full independence or some other self-governing status recognized by the United Nations, or a territory under foreign occupation or colonial domination, or

a United Nations Trust Territory, or a territory administered by the United Nations, shall be vested in the inhabitants of that territory, to be exercised by them for their own benefit and in accordance with their own needs and requirements.

2. Where a dispute over the sovereignty of a territory under foreign occupation or colonial domination exists, in respect of which the United Nations has recommended specific means of solution, rights referred to in paragraph 1 shall not be exercised except with the prior consent of the parties to the dispute until such dispute is settled in accordance with the purposes and principles of the Charter of the United Nations.

3. A metropolitan or foreign power administering, occupying or purporting to administer or occupy a territory may not in any case exercise, profit, or benefit from or in any way infringe the rights referred to in paragraph 1.

4. References in this article to a territory include continental territories and islands.

ANNEX

Highly migratory species

1. Albacore tuna: *Thunnus alalunga*
2. Bluefin tuna: *Thunnus thynnus*
3. Bigeye tuna: *Thunnus obesus*
4. Skipjack tuna: *Katsuwonus pelamis*
5. Yellowfin tuna: *Thunnus albacares*
6. Blackfin tuna: *Thunnus atlanticus*
7. Little tuna: *Euthynnus alletteratus*; *Euthynnus affinis*
8. Frigate mackerel: *Auxis thazard*; *Auxis rochei*
9. Pomfrets: Family Bramidae
10. Marlins: *Tetrapturus angustirostris*; *Tetrapturus belone*; *Tetrapturus pfluegeri*; *Tetrapturus albidus*; *Tetrapturus audax*; *Tetrapturus georgei*; *Makaira mazara*; *Makaira indica*; *Makaira nigricans*
11. Sail-fishes: *Istiophorus platypterus*; *Istiophorus albicans*
12. Swordfish: *Xiphias gladius*
13. Sauries: *Scomberesox saurus*; *Cololabis saira*; *Cololabis adocetus*; *Scomberesox saurus scombroides*
14. Dolphin: *Coryphaena hippurus*; *Coryphaena equiselis*
15. Oceanic sharks: *Hexanchus griseus*; *Cetorhinus maximus*; Family Alopiidae; *Rhincodon typus*; Family Carcharhinidae; Family Sphyrnidae; Family Isurida
16. Cetaceans: Family Physeteridae; Family Balaenopteridae; Family Balaenidae; Family Eschrichtiidae; Family Monodontidae; Family Ziphiidae; Family Delphinidae

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(Text presented by the Chairman of the Third Committee)

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INTRODUCTORY NOTE

At its 57th meeting on 15 March 1976, the Conference adopted a proposal by the President that the Chairmen of the three Committees should revise the single negotiating text prepared by them during the 1975 session of the Conference.

The President also proposed that the Chairmen should follow the same procedure as they did when preparing the original single negotiating text and that the revised text should remain only a basis for further negotiations rather than be treated as a negotiated or accepted compromise and should not prejudice the position of any delegation.