

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/WP.9/Rev.1

Informal single negotiating text (part IV)

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume V (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Fourth Session)*

(e) Acquisition and processing of marine scientific and technological data and information;

(f) Prompt dissemination of results of marine scientific and technological research in readily available publications;

(g) Publicizing national policies with regard to the transfer of technology and systematic comparative study of those policies;

(h) Compilation and systematization of information on the marketing of technology and on contracts and other arrangements concerning patents;

(i) Technical co-operation with other countries of the region.

SECTION 4. CO-OPERATION AMONG INTERNATIONAL ORGANIZATIONS

Article 89

The competent international organizations referred to in this Part of the Convention shall take all appropriate measures to ensure, either directly or in close co-operation among themselves, the effective discharge of the functions and responsibilities assigned to them under the provisions of this Chapter of the Convention.

DOCUMENT A/CONF.62/WP.9/REV.1*

Informal single negotiating text**

PART IV

*(Text presented by the President of the Conference)****

[Original: English]
[6 May 1976]

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* Incorporating document A/CONF.62/WP.9/Rev.1/Corr.1 of 12 May 1976.

** This text consists of four parts: parts I, II and III appear in document A/CONF.62/WP.8/Rev.1 and part IV in the present document.

*** See the note by the President of the Conference in document A/CONF.62/WP.8/Rev.1.

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INTRODUCTORY NOTE

At its 65th meeting on 12 April 1976 the Conference authorized the President to prepare a new single negotiating text, on the subject of settlement of disputes, which would have the same status and character as parts I, II and III of A/CONF.62/WP.8.¹¹

It was understood that the new document would be informal in character, would not prejudice the position of any delegation and would not presume to represent any negotiated text or accepted compromise. It would be a procedural device providing a basis for later negotiations. It would in no way affect proposals already made by delegations or their right to submit amendments or new proposals.

In preparing the new text contained in what is to be regarded as part IV the President has taken into account all views expressed, especially during the general debate in the Plenary which had the benefit of A/CONF.62/WP.9 as a basis

¹¹ 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).

for its discussion. Account has also been taken of relevant provisions contained in parts I, II and III of document A/CONF.62/WP.8, in so far as was possible due to the fact that they were undergoing revision, and of the several suggestions submitted by the groups and delegations.

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* * *

Chapter . . . Settlement of disputes*

Having regard to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations . . .

* NOTE: The precise relationship of the provisions of this chapter with the other chapters, in particular the provisions on settlement of disputes in part I of the revised single negotiating text appearing in document A/CONF.62/WP.8/Rev.1, has yet to be determined. Titles to articles and marginal notes are for ease of reference only. References to "other chapters" relate to parts I, II and III of the revised single negotiating text and references to "Chapter I" relate to part I of that text.

SECTION 1

*Article 1**Obligation to settle disputes by peaceful means*

The Contracting Parties shall settle any dispute between them relating to the interpretation or application of the present Convention through the peaceful means indicated in Article 33 of the Charter of the United Nations.

*Article 2**Settlement of disputes by means chosen by the parties*

Nothing in this Chapter shall impair the right of the Contracting Parties to agree at any time to settle a dispute between them which relates to the interpretation or application of the present Convention by any peaceful means of their own choice.

*Article 3**Obligations under general, regional or special agreements*

If the Contracting Parties which are parties to a dispute relating to the interpretation or application of the present Convention have accepted, through a general, regional or special agreement, or some other instrument or instruments an obligation to settle such dispute by resort to arbitration or judicial settlement, any party to the dispute may refer it to arbitration or judicial settlement in accordance with such agreement or instruments in place of the procedure specified in this Chapter, unless the parties agree otherwise.

*Article 4**Obligation to exchange views*

1. If a dispute arises between two or more Contracting Parties with respect to the interpretation or application of the present Convention, those parties shall proceed expeditiously to exchange views regarding settlement of the dispute.

2. Similarly, such an exchange of views shall be held whenever a procedure under the present Convention, or another procedure chosen by the parties, has been terminated without a settlement of the dispute.

*Article 5**Procedure when dispute is not settled by means chosen by the parties*

If the Contracting Parties which are parties to a dispute have agreed to settle a dispute by a peaceful means of their own choice and have agreed on a time-limit for such proceedings, the procedure specified in this Chapter shall apply only after the expiration of that time-limit, provided that no settlement has been reached and the agreement between the parties does not preclude any further procedure.

*Article 6**Conciliation*

1. Any Contracting Party which is party to a dispute relating to the interpretation or application of the present Convention may invite the other party or parties to the dispute to submit the dispute to conciliation in accordance with annex I A.

Invitation to conciliate

2. If the other party accepts this invitation, then any party to the dispute may set in motion the conciliation procedure which shall proceed in accordance with annex I A, subject to paragraph 3.

Acceptance

3. If a party to the dispute does not accept the invitation, or after accepting the invitation refuses, or within the time stipulated in annex I A fails, to appoint its members of the Conciliation Commission, or if the conciliators fail to agree to appoint a chairman, the party which has initiated the proceedings may terminate the proceedings by notifying the other party or parties to the dispute to this effect.

Termination

SECTION 2

*Article 7**Application of Section 1 and proceedings under Section 2*

1. Any procedure for the settlement of disputes provided for in the present Convention or an annex thereto shall apply only where no settlement has been reached by recourse to the provisions of Section 1, and shall be subject to the provisions of article 18 of this Chapter.

Application of Section 1

2. Subject to paragraph 1, any dispute relating to the interpretation or application of the present Convention shall be dealt with in accordance with the provisions of Section 2 of this Chapter.

Obligation to resort to Section 2

3. Any such dispute may be submitted to the forum having jurisdiction under these articles by application of a party to the dispute.

Institution of proceedings under Section 2

*Article 8**Procedures in other chapters and special procedures*

1. In cases where Chapter I of the present Convention provides an exclusive procedure for the settlement of disputes relating solely to the interpretation or application of the provisions of that chapter, articles 9 and 10 of this Chapter shall not apply to the settlement of such disputes.

Exclusive jurisdiction under Chapter 1

2. Where the tribunal having jurisdiction in accordance with the provisions of Chapter I of the present Convention, in dealing with a dispute relating to the interpretation or application of the provisions of that chapter, determines that such dispute involves also questions relating to the interpretation or application of other chapters of the present Convention, it shall:

Dispute relating to Chapter 1 and other chapters

(a) Require the parties to the dispute first to submit such questions for a finding to the appropriate procedure under articles 9 and 10 of this Chapter;

(b) Suspend its proceedings pending the conclusion of the appropriate procedure; and

(c) In reaching its decision have due re-

gard for the findings reached through resort to the appropriate procedure.

3. Subject to the provisions of article 7 of this Chapter, in cases where other chapters of the present Convention provide special procedures for settling all or some disputes relating to the interpretation or application of any part of the present Convention, the procedure specified in Section 2 of this Chapter shall apply, provided that:

(a) Such special procedure has been concluded;

(b) No settlement has been reached; and

(c) The relevant chapter or special procedure does not preclude any further procedure.

4. Where a special committee having jurisdiction under annex II in dealing with a dispute relating to the application of the relevant provisions of the present Convention, determines that such dispute involves also questions relating to the interpretation of the Convention, it shall:

(a) Require the parties to the dispute first to submit such questions for a finding to the appropriate procedure under articles 9 and 10 of this Chapter;

(b) Suspend its proceedings pending the conclusion of the appropriate procedure; and

(c) In reaching its decision have due regard for the findings reached through resort to the appropriate procedure.

Article 9

Choice of procedure

1. A Contracting Party, when ratifying or otherwise expressing its consent to be bound by the present Convention, or at any time thereafter, shall be free to choose, by means of a special declaration, one or more of the following procedures for the settlement of disputes relating to the interpretation or application of the present Convention:

(a) The Law of the Sea Tribunal;

(b) The International Court of Justice;

(c) An arbitral tribunal constituted in accordance with annex I B;

(d) The system of special procedures provided for in annex II.

2. If a Contracting Party makes a declaration accepting the system of special procedures, it shall include the acceptance of one or more of the other procedures specified in paragraph 1, for the settlement of disputes to which such special procedures are not applicable.

3. If a Contracting Party has not made a special declaration under the preceding paragraphs, or if upon the expiration of such a declaration as a result of revocation no new declaration has been made, it shall be deemed to have accepted the jurisdiction of:

Special procedure in other chapters

Interpretation of the Convention where special procedures under annex II apply

Choice of procedure

Supplement to system of special procedures

Effect of failure to exercise choice

(a) The International Court of Justice where it has made a declaration under Article 36 of the Statute of the Court, accepting its jurisdiction as binding and applicable to disputes arising out of the present Convention; and otherwise

(b) The Law of the Sea Tribunal.

4. A Contracting Party shall also be free to choose at any time, by means of a special declaration, one or more of the special procedures provided for in annex II for the settlement of disputes concerning the application of the relevant provisions of the present Convention. The other procedure chosen by such party under paragraph 1 (a), (b) or (c), or deemed to be chosen under paragraph 3, shall apply in relation to disputes to which such special procedures are not applicable.

5. If the parties to a dispute have accepted or are deemed to have accepted the same procedure for the settlement of such dispute, it may only be submitted to that procedure, unless the parties agree otherwise.

6. If the parties to a dispute have accepted under paragraph 1 or are deemed to have accepted under paragraph 3, the jurisdiction of the International Court of Justice in relation to such dispute, then such dispute may be submitted to the Court, unless the parties agree otherwise.

7. If the parties to a dispute have not accepted or are not deemed to have accepted the same procedure, such dispute may only be submitted to the procedure chosen by the party against which the proceedings are instituted.

8. The declarations referred to in this article shall be deposited with the Secretary-General of the United Nations who shall transmit copies thereof to the Contracting Parties.

9. Any declaration made under this article shall be valid until revoked by notice in writing to the Secretary-General who shall inform the Contracting Parties. Such revocation shall take effect three months after receipt of such notice by the Secretary-General.

10. While proceedings are pending before a forum having jurisdiction under this article, the revocation or expiration of a declaration, or a new declaration, shall not affect in any way the proceedings so pending, unless the parties agree otherwise.

Article 10

Extent of jurisdiction

1. The forum which has jurisdiction over parties to a dispute under article 9 shall, subject to the preceding provisions of this Chapter, be entitled to exercise its jurisdiction with respect to:

(a) Any dispute between Contracting Parties relating to the interpretation or application of the present Convention which has not

Choice of a special procedure under annex II

Agreed procedure

Agreement on International Court of Justice

Procedure in case of disagreement

Deposit of declarations

Revocation

Effect of revocation

Extent of primary jurisdiction

been settled pursuant to the provisions of Section I of this Chapter;

(b) Any dispute relating to the interpretation or application of Chapter I of the present Convention for which no exclusive procedure has been provided in that chapter;

(c) Any dispute relating to the interpretation or application of Chapter I of the present Convention for which an exclusive procedure has been provided under that chapter in so far as the dispute relates to such questions as are submitted to such forum under paragraph 2 of article 8;

(d) Any dispute between Contracting Parties submitted to a special procedure under annex II, in so far as a question of interpretation of the present Convention is submitted to such forum under paragraph 4 of article 8;

(e) Any dispute between Contracting Parties relating to the interpretation or application of the present Convention which has not been settled by a special procedure provided for in another chapter of the present Convention, unless that chapter expressly excludes further procedure under this Chapter; and

(f) Any dispute relating to the interpretation or application of an international agreement related to the purposes of the present Convention which provides that any such dispute shall be decided in accordance with this Chapter.

2. Whenever a binding decision has been rendered as a result of resort to a special procedure provided for in annex II, appellate jurisdiction of the forum competent under article 9 may be exercised only when one of the parties to the dispute presents a claim that the decision was invalid because of:

- (a) Excess of jurisdiction;
- (b) Infringement of basic procedural rules; or
- (c) Violation of the present Convention.

3. A claim under paragraph 2 must be submitted within three months from the date of the contested decision.

Article 11

Expert advice and assistance

1. When dealing with a dispute involving scientific or technical matters the Law of the Sea Tribunal, International Court of Justice, or an arbitral tribunal as the case may be, exercising jurisdiction under articles 9 and 10 of this Chapter may, at the request of one or more of the parties or on its own initiative, either

(a) Refer any such scientific or technical matters to a committee of experts chosen from the list of qualified persons prepared in accordance with the relevant part of annex II; or

(b) Select four scientific or technical assessors from the list referred to in the preceding

subparagraph, who shall sit with such tribunal or the Court throughout all the stages of the proceedings, but without the right to vote.

2. In a case referred to a committee of experts under subparagraph 1 (a), if the dispute is not settled on the basis of the committee's opinion, either party to the dispute may request that such tribunal or the Court proceed to consider the other aspects of the dispute, taking into consideration the findings of the committee and other pertinent information.

Article 12

Provisional measures

1. The forum to which a dispute has been submitted under article 9 of this Chapter, shall, upon the request of a party to such dispute, have the power to indicate or prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent harm to the marine environment, pending final adjudication.

2. If proceedings have commenced for the settlement of a dispute under the present Convention, and the forum to which such dispute has been submitted has not been constituted or does not have the power to prescribe provisional measures and if two or more parties are in dispute as to the need for such provisional measures or as to the content or extent of such measures, the Law of the Sea Tribunal, acting in conformity with paragraph 1, shall have jurisdiction to prescribe such measures, which shall remain in force subject to review by the competent forum.

3. Notice of any provisional measures indicated or prescribed under this article shall be given forthwith to the parties to the dispute and to all Contracting Parties.

4. Any provisional measures indicated by the International Court of Justice, or prescribed by a forum under this article or an annex to this Chapter, shall be binding upon the parties to the dispute.

Article 13

Access

1. All the dispute settlement procedures specified in the present Convention shall be open to the Contracting Parties.

2. Access to the dispute settlement procedures with respect to disputes arising under Chapter I of the present Convention, shall be open in accordance with the provisions of that chapter.

3. The provisions of this article shall be without prejudice to article 15 of this Chapter.

Article 14

Local remedies

1. In the case of a dispute between Contracting Parties relating to the exercise of sovereign rights, exclusive rights, or exclusive jurisdiction of a coastal State, a Contracting Party shall not be entitled to submit such dispute to the procedure specified in articles 9 and 10 of this Chapter, if local remedies have not been exhausted as required by international law.

Exhaustion
of local
remedies

2. In any other dispute relating to the interpretation or application of the present Convention, a Contracting Party which has taken measures alleged to be contrary to the present Convention shall not be entitled to object to the jurisdiction of the appropriate forum under articles 9 and 10 of this Chapter solely on the ground that local remedies have not been exhausted as required under international law.

Exceptions

3. The provisions of this article shall be without prejudice to the provisions of article 18.

Relation to
article 18

Article 15

Detention of vessels

1. In case of the detention by the authorities of a Contracting Party of a vessel flying the flag of another Contracting Party, or of its crew or passengers, in connexion with an alleged violation of the present Convention, the state of the vessel's registry through a diplomatic or consular officer acting on its behalf, and the owner, operator or master of the vessel shall have the right to bring the question of detention before the Law of the Sea Tribunal unless the parties agree upon another forum, in order to secure prompt release of the vessel, its crew or passengers in accordance with the applicable provisions of the present Convention, including the presentation of a bond.

Procedure
for release

2. Such question of detention shall be promptly dealt with by the appropriate forum to which application has been made under paragraph 1.

Question of
detention to
be brought
up promptly

3. Any such proceedings shall be limited to the question of release only and shall be without prejudice to the merits of any case against the vessel, its crew or passengers before the appropriate tribunal.

Limited
scope of
procedures

4. A decision of the forum that the vessel, or its crew or passengers, be released shall be promptly complied with by the Contracting Party concerned.

Compliance

Article 16

Applicable law

1. The forum having jurisdiction under articles 9 and 10 of this Chapter:

Law to be
applied

(a) Shall apply the law of the present

Convention, other rules of international law, and any other applicable law; and

(b) Shall ensure that the rule of law is observed in the interpretation and application of the present Convention.

2. The provisions of this Chapter shall not prejudice the right of the parties to the dispute to agree that the dispute be decided *ex aequo et bono*.

Decisions *ex
aequo et
bono*

Article 17

Binding force of decisions

1. No decision rendered, settlement effected or measure prescribed or indicated, in relation to any dispute submitted to a forum having jurisdiction under articles 9 and 10 of this Chapter shall have any binding force except between the parties and in respect of that particular dispute.

Binding force

2. Any decision rendered, finding made, or measure prescribed by a committee or commission constituted in accordance with the special procedures provided for in the present Convention or an annex thereto shall not constitute a precedent except for that particular committee or commission.

Precedent

Article 18

Exceptions

1. Nothing contained in the present Convention shall empower any Contracting Party to submit to the dispute settlement procedures provided for in the present Convention any dispute in relation to the exercise of sovereign rights, exclusive rights or exclusive jurisdiction of a coastal State, except in the following cases:

Exclusion of
coastal
States rights
and
exceptions

(a) when it is claimed that a coastal State has violated its obligations under the present Convention by interfering with the freedom of navigation or overflight, the freedom to lay submarine cables or pipelines or by failing to give due regard to any substantive rights specifically established by the present Convention in favour of other States;

(b) when it is claimed that any other State, when exercising the aforementioned freedoms, has violated its obligations under the Convention or the laws and regulations enacted by a coastal State in conformity with the present Convention; or

(c) when it is claimed that a coastal State has violated its obligations under the present Convention by failing to apply international standards or criteria established by the present Convention or by a competent international authority in accordance therewith, which are applicable to the coastal State and which relate to the preservation of the marine environment, provided that the international standards or criteria in question shall be specified.

2. When ratifying the present Convention, or otherwise expressing its consent to be bound by it, a Contracting Party may declare that it does not accept some or all of the

Specified
exceptions
by
declaration

procedures for the settlement of disputes specified in the present Convention with respect to one or more of the following categories of disputes:

(a) disputes concerning sea boundary delimitations between adjacent or opposite States, or those involving historic bays or titles, provided that the State making such a declaration shall indicate therein a regional or other third party procedure, entailing a binding decision, which it accepts for the settlement of these disputes;

(b) disputes concerning military activities, including those by government vessels and aircraft engaged in non-commercial service, it being understood that law enforcement activities pursuant to the present Convention shall not be considered military activities; and

(c) disputes in respect of which the Security Council of the United Nations, while exercising the functions assigned to it by the Charter of the United Nations, determines that specified proceedings under the present Convention interfere with the exercise of such functions in a particular case.

3. If the parties to a dispute are not in agreement as to the applicability of paragraphs 1 or 2 to a particular dispute, this preliminary question may be submitted for decision to the forum having jurisdiction under articles 9 and 10 of this Chapter by application of a party to the dispute.

4. A Contracting Party, which has made a declaration under paragraph 2, may at any time withdraw it.

5. Any Contracting Party which has made a declaration under paragraph 2 shall not be entitled to invoke any procedure excepted under such declaration in relation to any excepted category of dispute against any other Contracting Party.

6. If one of the Contracting Parties has made a declaration under paragraph 2 (a) any other Contracting Party may refer the dispute to the regional or other third-party procedure specified in such declaration.

Applicability of exceptions

Withdrawal of declarations

Restriction on invoking excepted procedure

Reference of dispute to alternative procedure

ANNEX I A

Conciliation

Article 1

Application of conciliation procedure

Any reference of a dispute to the conciliation procedure provided for in this annex shall be subject to the provisions of article 6 of this Chapter.

Article 2

List, nomination and term of conciliators

A list of conciliators shall be drawn up and maintained by the Registrar. To this end, every Contracting Party shall be

entitled to nominate four conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by any Contracting Party in the list so constituted shall be less than four, then that Contracting Party shall be entitled to make further nominations as necessary. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following article.

Article 3

Initiation of procedure and appointment of conciliators

Whenever a dispute is referred to conciliation under article 6 of this Chapter, the party or parties initiating this procedure shall notify the Registrar, who shall notify all the parties of such reference. The Registrar shall assist the parties in the establishment of a Conciliation Commission, which shall be constituted as follows:

1. The party or parties to the dispute initiating the procedure shall appoint:

(a) One conciliator of the nationality of that party or of one of those parties, who may or may not be chosen from the list referred to in article 2 of this annex; and

(b) One conciliator not of the nationality of that party or of any of those parties, who shall be chosen from the list.

2. The State or States constituting the other party to the dispute shall appoint two conciliators in the same way.

3. The four conciliators chosen by the parties shall be appointed within 30 days following the date on which the Registrar issues the notification and shall within 30 days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

4. If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General of the United Nations within 30 days following the expiry of that period. The appointment of the chairman shall be made by the Secretary-General from the list referred to in article 2. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

5. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 4

Procedure to be adopted

The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Contracting Party to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

Article 5

Amicable settlement

The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

*Article 6**Functions of the commission*

The Commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

*Article 7**Report*

The Commission shall report within 12 months of its constitution. Its report shall be deposited with the Registrar and transmitted by him to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

*Article 8**Facilities, fees and expenses*

The Registrar shall provide the Commission with such assistance and facilities as it may require. The fees and expenses of the Commission shall be borne by the parties to the dispute.

*Article 9**Definition of registrar*

The Registrar referred to in this annex shall be the Registrar of the Law of the Sea Tribunal appointed in accordance with annex I C to this Chapter.

ANNEX I B**Arbitration***Article 1**Application of arbitration procedure*

Any reference of a dispute to the arbitration procedure provided for in this annex shall be subject to the provisions of this Chapter.

*Article 2**Constitution of arbitral tribunal*

Unless the parties agree otherwise, the arbitral tribunal shall be constituted as follows:

1. Subject to the provisions of paragraph 7, the Arbitral Tribunal shall consist of five members. Each Contracting Party which is a party to the dispute shall appoint one member, who may be its national. The other members shall be appointed by agreement from among the nationals of third States. These other members must be of different nationalities and must not be habitually resident in the territory nor be in the service of any of the parties to the dispute. The parties to the dispute shall appoint the President of the Tribunal from among these three members.

2. The party or parties requesting arbitration shall, at the time of making the request, each appoint a member of the Tribunal and shall submit a statement of the claim which is

being submitted to arbitration and the grounds on which such claim is based.

3. If within a period of 30 days from the date of receipt of the request for arbitration the other party or parties to the dispute have not appointed a member, then upon the request of the party or parties which initiated the procedure of arbitration, the appointment shall be made in accordance with paragraph 5.

4. If within a period of 90 days from the date of receipt of the request for arbitration, the parties are unable to reach agreement on the appointment of one or more of the members of the Tribunal to be designated jointly or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with paragraph 5.

5. Unless the parties agree that the task of making appointments under paragraphs 3 and 4 be entrusted to some person or a third State chosen by the parties, the President of the Law of the Sea Tribunal, constituted in accordance with annex I C of this Chapter, shall be entrusted with the task of making such appointments. If the President is prevented from acting or is a national of one of the parties to the dispute, this task shall be entrusted to the Vice-President. If the Vice-President is prevented from acting or is a national of one of the parties to the dispute, this task shall be entrusted to the next senior member of the Law of the Sea Tribunal who is not a national of the parties. The President, Vice-President, other member of the Law of the Sea Tribunal, or the person or third State chosen by the parties, shall make such appointments within a period of 60 days after receipt of the request, after consultations with the parties and appropriate international organizations, from among persons experienced in law of the sea questions and having special expertise in the subject matter of the dispute.

6. Vacancies which may occur as a result of death, resignation or any other cause shall be filled in the manner provided for the original appointments.

7. Should a dispute arise between more than two parties, and should there be several parties in the same interest, they shall appoint one member of the Tribunal jointly by agreement. Should there be, however, several parties having separate interests, each of them shall appoint one member of the Tribunal, but in such a case the number of members of the Tribunal appointed separately by the parties shall always be smaller by one than the number of members of the Tribunal to be appointed from among the nationals of other States. In disputes involving more than two parties the provisions of paragraphs 1-6 shall prevail to the maximum extent possible. In case of a dispute about the applicability of this paragraph, the Law of the Sea Tribunal shall decide that question.

*Article 3**Procedure to be adopted*

In the absence of an agreement to the contrary between the parties to the dispute, the Arbitral Tribunal shall lay down its own procedure assuring to each party a full opportunity to be heard and to present its case. If the Tribunal is unable to agree on its rules of procedure, Part IV of The Hague Convention for the Pacific Settlement of International Disputes of 1907 shall apply.

*Article 4**Provisional measures*

Upon the request of any party or parties to the dispute, the Arbitral Tribunal shall have the power to prescribe, if it

considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent harm to the marine environment, pending the final decision of the Tribunal. Such measures shall be binding upon the parties.

Article 5

Duties of parties to a dispute

The parties to the dispute shall facilitate the work of the Arbitral Tribunal, and in particular, in accordance with their law and using all means at their disposal shall:

(a) Provide the Tribunal with all relevant documents and information; and

(b) Enable the Tribunal when necessary to summon and receive the evidence of witnesses or experts, to enter their territories or to visit the localities in question.

Article 6

Expenses

Unless the Arbitral Tribunal determines otherwise because of the particular circumstances of the case, the expenses of the Tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

Article 7

Required majority for decisions

Decisions of the Arbitral Tribunal shall be taken by a majority vote. The absence or abstention of one or two of the members shall not constitute an impediment to the Tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

Article 8

Default of appearance

Absence or default of any party to the dispute shall not constitute an impediment to the procedure. Before deciding in favour of any party, the Arbitral Tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

Article 9

Statement of reasons

The award of the Arbitral Tribunal shall be accompanied by a statement of reasons. Any member of the Tribunal may attach a separate or dissenting opinion to the award.

Article 10

Finality of award

The award shall be final and without appeal. The parties to the dispute shall immediately comply with the award.

Article 11

Interpretation or execution of award

Any controversy which may arise between the parties to the dispute as regards the interpretation or execution of the

award may be submitted by either party for decision to the Arbitral Tribunal which made the award, or, if not available, to another Arbitral Tribunal constituted for this purpose in the same manner as the original Tribunal.

ANNEX I C

Statute of the Law of the Sea Tribunal

Article 1

General provisions

1. The Law of the Sea Tribunal shall be constituted and shall function in accordance with the provisions of the Law of the Sea Convention and the present Statute.

2. Any reference of a dispute to the Tribunal shall be subject to the provisions of this Chapter.

SECTION 1. ORGANIZATION OF THE TRIBUNAL

Article 2

Composition of Tribunal

1. The Tribunal shall be composed of a body of 15 independent members, elected regardless of their nationality from among persons of high moral character, and of recognized competence in law of the sea matters.

2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

Article 3

Pattern of nomination and election of members

1. No two members of the Tribunal may be nationals of the same State, and a person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

2. The members of the Tribunal shall be elected according to the following pattern:

- (i) Four from the Group of African States;
- (ii) Three from the Group of Asian States;
- (iii) Two from the Group of Eastern European States;
- (iv) Three from the Group of Latin American States; and
- (v) Three from the Group of Western European and Other States, subject to the following provisos:

(a) No Group shall have more than one member for every 10 States of the Group who are parties to the Convention as of the date of the election;

(b) Each Group shall have a minimum of two members; and

(c) Every State party to the Convention shall determine the Group to which it has decided to belong for the purpose of the election of members to the Tribunal and shall communicate such decision to the Secretary-General of the United Nations, in the case of the first election and the Registrar of the Law of the Sea Tribunal in subsequent elections, who shall notify all the Contracting Parties.

3. If the total membership of 15 is not realized through the application of the provisions of paragraph 2 (a) of this

article, the remainder shall be elected in accordance with the provisions of paragraph 4 of article 4 of the present Statute.

Article 4

Procedure for nomination and election

1. Each Contracting Party may nominate not more than two persons having the qualifications prescribed in article 2 of the present Statute. The members of the Tribunal shall be elected from a list of persons thus nominated.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the Contracting Parties to submit their nominations for members of the Tribunal within two months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the Contracting Parties which have nominated them, and shall submit it to the Contracting Parties before the seventh day of the last month before the date of each election.

3. The first election shall be held no later than six months after the date of entry into force of the present Convention.

4. Elections of the members of the Tribunal shall be by secret ballot. They shall be held at a meeting of the Contracting Parties convened by the Secretary-General of the United Nations in the case of the first election and by procedure agreed to by the Contracting Parties in the case of subsequent elections. At that meeting, for which two thirds of the Contracting Parties shall constitute a quorum, the persons elected to the Tribunal shall be those nominees who obtain the largest number of votes and a two-thirds majority of votes of the Contracting Parties present and voting, provided that such majority shall include at least a majority of the Contracting Parties.

Article 5

Term of office

1. The members of the Tribunal shall be elected for nine years and may be re-elected; provided, however, that of the members elected at the first election, the terms of five members shall expire at the end of three years and the terms of five more members shall expire at the end of six years.

2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election has been completed.

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall continue to function in any proceedings commenced at the time of their replacement.

4. In the case of the resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of the letter of resignation.

Article 6

Vacancies

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations

provided for in article 4 of the present Statute, and the date of the election shall be fixed by the President of the Tribunal after consultation with Contracting Parties.

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 7

Conditions relating to interests of members

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration or exploitation of the resources of the sea or the sea-bed or other commercial use of the sea or the sea-bed.

2. Any doubt on this point shall be decided by a majority of the other members of the Tribunal present.

Article 8

Conditions relating to participation of members in other capacities

1. No member of the Tribunal may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or in any other capacity.

3. Any doubts on these points shall be decided by a majority of the other members of the Tribunal present.

Article 9

Consequences of ceasing to fulfil conditions

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the required conditions, the President of the Tribunal shall declare the seat vacant.

Article 10

Diplomatic privileges and immunities

The members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

Article 11

Declaration by members

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

Article 12

President, Vice-President and Registrar

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.

2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

*Article 13**Seat of Tribunal*

1. The seat of the Tribunal shall be determined by the Contracting Parties, provided that the Tribunal shall have the right to sit and exercise its functions elsewhere whenever the Tribunal considers it desirable.

2. The President and the Registrar shall reside at the seat of the Tribunal.

*Article 14**Constitution of Tribunal and chambers*

1. Nine members shall be sufficient to constitute the Tribunal. Subject to the provisions of article 17 of the present Statute, the President of the Tribunal shall determine which members shall participate in the consideration of a particular dispute.

2. The Tribunal may from time to time form one or more chambers, composed of three or more members as the Tribunal may determine, for dealing with particular categories of dispute, such as disputes relating to fishing, sea-bed exploration or exploitation, marine pollution, scientific research or navigation. The members of each chamber shall be elected by the Tribunal from amongst its members, having regard to any special knowledge, expertise or previous experience which any of the members of the Tribunal may have in relation to the category of disputes for which the chamber has been formed. After each election, the Registrar shall communicate to all the Contracting Parties the names of the members of the Tribunal assigned to various chambers.

3. The Tribunal may at any time form a chamber for dealing with a particular dispute. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.

4. Disputes shall be heard and determined by the chambers provided for in this article, unless a party requests that the dispute be considered by the Tribunal.

5. A judgement given by any of the chambers provided for in this article and article 15 of the present Statute, shall be considered as rendered by the Tribunal.

*Article 15**Summary procedure*

With a view to the speedy dispatch of business, including the issuance of provisional measures under article 26 of the present Statute, the Tribunal shall form annually a chamber composed of three or more members which, at the request of the parties, may hear and determine disputes by summary procedure. Two alternative members shall be selected for the purpose of replacing members who are unable to participate in a particular proceeding.

*Article 16**Rules of Tribunal, expert advice and assistance*

1. The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.

2. When a dispute involves technical questions, such as safety of navigation, ship construction, pollution, scientific research, fishing or sea-bed exploration or exploitation, the Tribunal, or the chamber dealing with the dispute, shall be assisted in its consideration of the case by two or more

technical assessors sitting with it but without the right to vote. These assessors shall be chosen by the President of the Tribunal from the list of qualified persons prepared pursuant to the rules of the Tribunal.

3. The Tribunal shall, whenever it deems it desirable or at the request of the parties to a dispute, refer technical issues of fact to a fact-finding board for non-binding advice. The members of such a board shall be selected from the list provided for in paragraph 2.

*Article 17**Nationality of members hearing dispute*

1. Members of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.

2. If the Tribunal hearing any dispute includes a member of the nationality of one of the parties, any other party to the dispute may choose a person to participate as a member of the Tribunal.

3. If the Tribunal hearing any dispute does not include a member of the nationality of the parties, each of these parties may proceed to choose a member as provided in paragraph 2.

4. The provisions of this article shall apply to articles 14 and 15 of the present Statute. In such cases, the President shall request specified members of the Tribunal forming the chamber, as many as necessary, to give place to the members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the members specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt on this point shall be settled by the decision of the Tribunal.

6. Members chosen as laid down in paragraphs 2, 3 and 4 of this article shall fulfil the conditions required by article 2, paragraph 2 of article 8 and article 11 of the present Statute. They shall participate in the decision on terms of complete equality with their colleagues.

*Article 18**Remuneration of members*

1. Each member of the Tribunal shall receive an annual salary and a special allowance in respect of each dispute in the consideration of which he participates.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The members chosen under article 17, other than members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed from time to time at a meeting of the Contracting Parties, taking into account the workload of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed at a meeting of the Contracting Parties on the proposal of the Tribunal.

7. Regulations made at the meeting of the Contracting Parties shall fix the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of

the Tribunal and Registrar shall have their travelling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 19

Expenses of Tribunal

The expenses of the Tribunal shall be borne by the Contracting Parties, other States, and international intergovernmental organizations having access to the Tribunal in such a manner as shall be decided at a meeting of the Contracting Parties.

SECTION 2. COMPETENCE OF THE TRIBUNAL

Article 20

Parties before Tribunal

Contracting Parties, other States, international intergovernmental organizations, and natural and juridical persons may be parties before the Tribunal in any case expressly provided for in the present Convention or in an international agreement, accepted by all the parties to the dispute.

Article 21

Access to Tribunal

1. The Tribunal shall be open to the Contracting Parties, to other States, to international intergovernmental organizations, and to natural and juridical persons, in accordance with article 13 of this Chapter.

2. When a State which is not a party to this Convention, or an international intergovernmental organization or person is a party to a dispute, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal. This provision shall not apply if such State or organization is bearing a share of the expenses of the Tribunal.

Article 22

Jurisdiction

The jurisdiction of the Tribunal shall comprise all disputes submitted to it in accordance with this Convention and all matters specifically provided for in any other international agreement, which confers jurisdiction on the Tribunal, as specified in articles 10 and 13 of this Chapter.

Article 23

Reference of disputes subject to other agreements

Subject to article 3 of this Chapter, whenever a treaty or convention already in force provides for reference to a special tribunal of a subject-matter covered by the present Convention, the parties to such a treaty or convention may agree to refer the matter to the Law of the Sea Tribunal.

Article 24

Applicable law

The Tribunal shall decide all disputes submitted to it in accordance with article 16 of this Chapter.

SECTION 3. PROCEDURE

Article 25

Institution of proceedings

1. Disputes are brought before the Tribunal, as the case may be, either by the notification of the special agreement or by a written application addressed by a party or parties to the dispute to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify all Contracting Parties.

Article 26

Provisional measures

1. The Tribunal shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent harm to the marine environment, pending final adjudication.

2. If the Tribunal is not in session, the provisional measures shall be prescribed by the Chamber of Summary Procedure to be established under article 15 of this Statute.

3. Notice of the measures prescribed by the Tribunal shall forthwith be given to the parties and to all Contracting Parties.

4. The provisional measures prescribed by the Tribunal, or its chamber, shall be binding upon the parties to the dispute.

Article 27

Conduct of case

The Tribunal shall make orders for the conduct of the case, shall decide the form and time in which each party must present its arguments, and make all arrangements connected with the receiving of evidence.

Article 28

Default of appearance

1. Whenever one of the parties does not appear before the Tribunal, or fails to defend its case, the other party may call upon the Tribunal to decide in favour of its claim.

2. The Tribunal must, before doing so, satisfy itself, not only that it has jurisdiction, but also that the claim is well founded in fact and law.

Article 29

Majority for decision

1. All questions shall be decided by a majority of the members of the Tribunal who are present.

2. In the event of an equality of votes, the President or the member who acts in his place shall have a casting vote.

*Article 30**Judgement*

1. The judgement shall state the reasons on which it is based.
2. It shall contain the names of the members of the Tribunal who have taken part in the decision.
3. If the judgement does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.

*Article 31**Binding force of decisions*

The decision of the Tribunal has no binding force except between the parties and in respect of that particular dispute.

*Article 32**Request to intervene*

1. Should a State, an international intergovernmental organization or person consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit a request to the Tribunal to be permitted to intervene.
2. It shall be for the Tribunal to decide upon this request, subject to the provisions of article 13 of this Chapter.

*Article 33**Notification in cases of interpretation or application of Convention*

1. Whenever the interpretation or application of the present Convention is in question, the Registrar shall notify all Contracting Parties forthwith.
2. Every Contracting Party so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgement will be equally binding upon it.

*Article 34**Finality of judgement*

The judgement is final and without appeal. In the event of dispute as to the meaning or scope of the judgement, the Tribunal shall construe it upon the request of any party.

*Article 35**Costs*

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

SECTION 4. AMENDMENT

*Article 36**Amendment*

1. Amendments to the present Statute shall be effected by the same procedure as is provided by the Law of the Sea Convention for amendments to that Convention.

2. The Tribunal shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Contracting Parties, for consideration in conformity with the provisions of paragraph 1.

*ANNEX II. SYSTEM OF SPECIAL PROCEDURES**ANNEX II A**Fisheries**Article 1**Institution of proceedings*

Any dispute between two or more Contracting Parties concerning the application of the articles relating to fisheries in the present Convention, if not settled by recourse to the provisions of Section 1 of this Chapter, shall in accordance with Section 2, at the request of any of the parties to the dispute, be submitted to a special committee of five members appointed by agreement between the parties and selected from a list of experts on scientific and technical aspects of marine fisheries, established by the United Nations Food and Agriculture Organization or an appropriate body or organ thereof.

*Article 2**Appointment of Special Committee*

Failing agreement among the parties within a period of three months of the request for settlement of the dispute, the members of the Special Committee shall, at the request of any party to the dispute, be appointed within a further period of three months by the Director-General of the United Nations Food and Agriculture Organization, in consultation with the parties to the dispute.

*Article 3**List of experts*

Each Contracting Party may designate, for inclusion in the list of experts established by the United Nations Food and Agriculture Organization, two persons whose competence in the field of fisheries is established and generally recognized.

*Article 4**Procedure to be adopted*

The Special Committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. Failing agreement by the parties it shall also decide how the costs and expenses are to be apportioned between the parties to the dispute.

*Article 5**Provisional measures*

The Special Committee shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent

harm to the marine environment, pending its final decision. These measures shall be binding on the parties.

Article 6

Time-limit for decision

The Special Committee shall give its decision within five months of the date of appointment of its members, unless it decides that it is necessary to extend the time-limit for a further period which shall not exceed three months.

Article 7

Interpretation of the Convention

Where the Special Committee dealing with a dispute relating to the application of the relevant provisions of the present Convention determines that such dispute involves also questions relating to the interpretation of the Convention it shall:

(a) Require the parties to the dispute first to submit such questions for a finding to the appropriate procedure under articles 9 and 10 of this Chapter;

(b) Suspend its proceedings pending the conclusion of the appropriate procedure; and

(c) In reaching its decision have due regard for the findings reached through resort to the appropriate procedure.

Article 8

Applicable law

In reaching its decisions, the Special Committee shall comply with these articles, the present Convention, the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.

Article 9

Binding force of decisions

The decisions of the Special Committee shall be adopted by a majority vote and shall be binding on the parties to the dispute.

Article 10

Fact finding

The parties concerned may agree to request the Special Committee to carry out an investigation and establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of the articles relating to fisheries in the present Convention. In this case, the findings of the Special Committee shall be considered as conclusive. The Special Committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.

ANNEX II B

Pollution

Article 1

Institution of proceedings

Any dispute between two or more Contracting Parties concerning the application of the articles relating to marine pollution in the present Convention, if not settled by recourse to the provisions of Section 1 of this Chapter, shall in accordance with Section 2, at the request of any of the parties to the dispute, be submitted to a special committee of five members appointed by agreement between the parties and selected from a list of experts on scientific and technical marine pollution problems established by the United Nations Environment Programme or an appropriate body or organ thereof.

Article 2

Appointment of Special Committee

Failing agreement among the parties within a period of three months, the members of the Special Committee shall, at the request of any party to the dispute, be appointed within a further period of three months by the Executive Director of the United Nations Environment Programme, in consultation with the parties to the dispute.

Article 3

List of experts

Each Contracting Party may designate, for inclusion in the list of experts established by the United Nations Environment Programme, two persons whose competence in the field of pollution control and conservation of the marine environment is established and generally recognized.

Article 4

Procedure to be adopted

The Special Committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. Failing agreement by the parties it shall also decide how the costs and expenses are to be apportioned between the parties to the dispute.

Article 5

Provisional measures

The Special Committee shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent harm to the marine environment, pending its final decision. These measures shall be binding on the parties.

Article 6

Time-limit for decision

The Special Committee shall give its decision within five months of having been set up. In an emergency, this period

may be reduced by agreement between the parties or by a decision of the Committee.

Article 7

Interpretation of the Convention

Where the Special Committee dealing with a dispute relating to the application of the relevant provisions of the present Convention, determines that such dispute involves also questions relating to the interpretation of the Convention it shall:

(a) Require the parties to the dispute first to submit such questions for a finding to the appropriate procedure under articles 9 and 10 of this Chapter;

(b) Suspend its proceedings pending the conclusion of the appropriate procedure; and

(c) In reaching its decision have due regard for the findings reached through resort to the appropriate procedure.

Article 8

Applicable law

In reaching its decisions, the Special Committee shall comply with these articles, the present Convention, the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.

Article 9

Binding force of decisions

The decisions of the Special Committee shall be adopted by a majority vote and shall be binding on the parties to the dispute.

Article 10

Fact finding

The parties concerned may agree to request the Special Committee to carry out an investigation and establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of the articles relating to marine pollution in the present Convention. In this case, the findings of the Special Committee shall be considered as conclusive. The Special Committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.

ANNEX II C

Scientific research

Article 1

Institution of proceedings

Any dispute between two or more Contracting Parties concerning the application of the articles relating to scientific research in the present Convention, if not settled by recourse to the provisions of Section 1 of this Chapter, shall in accordance with Section 2, at the request of any of the parties to the dispute, be submitted to a special committee of five members appointed by agreement between the parties and selected from a list of experts on scientific and technical

aspects of marine scientific research established by the Intergovernmental Oceanographic Commission.

Article 2

Appointment of Special Committee

Failing agreement among the parties within a period of three months, the members of the special committee shall, at the request of any party to the dispute, be appointed within a further period of three months by the Director-General of the United Nations Educational, Scientific and Cultural Organization, after consultation with the Chairman of the Intergovernmental Oceanographic Commission.

Article 3

List of experts

Each Contracting Party may designate, for inclusion in the list of experts established by the Intergovernmental Oceanographic Commission, two persons whose competence in the field of marine scientific research is established and generally recognized.

Article 4

Procedure to be adopted

The Committee shall so organize its own procedure as to ensure that each party has the opportunity to be heard and to present its case. Failing agreement by the parties, it shall also decide how the costs and expenses are to be apportioned between the parties to the dispute.

Article 5

Provisional measures

The Special Committee shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent harm to the marine environment, pending its final decision. These measures shall be binding on the parties.

Article 6

Time-limit for decision

The Special Committee shall give its decision within five months of having been set up. In an emergency, this period may be reduced by agreement between the parties or by a decision of the Committee.

Article 7

Interpretation of the Convention

Where the Special Committee dealing with a dispute relating to the application of the relevant provisions of the present Convention determines that such dispute involves also questions relating to the interpretation of the Convention it shall:

(a) Require the parties to the dispute first to submit such questions for a finding to the appropriate procedure under articles 9 and 10 of this Chapter;

(b) Suspend its proceedings pending the conclusion of the appropriate procedure; and

(c) In reaching its decision have due regard for the findings reached through resort to the appropriate procedure.

Article 8

Applicable law

In reaching its decisions, the Special Committee shall comply with these articles, the present Convention, the rules of general international law and any special agreement reached between the parties to the dispute with a view to settling the dispute.

Article 9

Binding force of decisions

The decisions of the Special Committee shall be adopted by a majority vote and shall be binding on the parties to the dispute.

Article 10

Fact finding

The parties concerned may agree to request the Special Committee to carry out an investigation and establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of the articles relating to scientific research in the present Convention. In this case, the findings of the Special Committee shall be considered as conclusive. The Special Committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.

ANNEX II D

Navigation

Article 1

Institution of proceedings

Any dispute between two or more Contracting Parties concerning the application of the articles relating to navigation in the present Convention, if not settled by recourse to the provisions of Section 1 of this Chapter, shall in accordance with Section 2, at the request of any of the parties to the dispute, be submitted to a special committee of five members appointed by agreement between the parties and selected from a list of experts on scientific and technical aspects of navigation established by the Inter-Governmental Maritime Consultative Organization.

Article 2

Appointment of Special Committee

Failing agreement among the parties within a period of three months, the members of the Special Committee shall, at the request of any party to the dispute, be appointed within a further period of three months by the Secretary-General of the Inter-Governmental Maritime Consultative Organization, in consultation with the parties to the dispute.

Article 3

List of experts

Each Contracting Party may designate, for inclusion in the list of experts established by the Inter-Governmental Maritime Consultative Organization, two persons whose competence in the field of navigation is established and generally recognized.

Article 4

Procedure to be adopted

The Special Committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. Failing agreement by the parties, it shall also decide how the costs and expenses are to be apportioned between the parties to the dispute.

Article 5

Provisional measures

The Special Committee shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute pending its final decision. These measures shall be binding on the parties.

Article 6

Time-limit for decisions

The Special Committee shall give its decision within five months of having been set up. In an emergency, this period may be reduced by agreement between the parties or by a decision of the committee.

Article 7

Interpretation of the Convention

Where the Special Committee dealing with a dispute relating to the application of the relevant provisions of the present Convention determines that such dispute involves also questions relating to the interpretation of the Convention it shall:

(a) Require the parties to the dispute first to submit such questions for a finding to the appropriate procedure under articles 9 and 10 of this Chapter;

(b) Suspend its proceedings pending the conclusion of the appropriate procedure; and

(c) In reaching its decision have due regard for the findings reached through resort to the appropriate procedure.

Article 8

Applicable law

In reaching its decisions, the Special Committee shall comply with these articles, the present Convention, the rules of general international law and any special agreements reached between the parties to the dispute, with a view to settling the dispute.

Article 9

Binding force of decisions

The decisions of the Special Committee shall be adopted by a majority vote and shall be binding on the parties to the dispute.

Article 10

Fact finding

The parties concerned may agree to request the Special Committee to carry out an investigation and establish the

facts giving rise to any dispute concerning the interpretation or the application of the provisions of the articles relating to navigation in the present Convention. In this case, the findings of the Special Committee shall be considered as conclusive. The Special Committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.