



Tonga

# **MARITIME ZONES ACT**

**Chapter 1.03**

**2020 Revised Edition**





## MARITIME ZONES ACT

### Arrangement of Sections

#### Section

<b>PART I – PRELIMINARY</b>	<b>7</b>
1 Short title.....	7
2 Interpretation.....	7
<b>PART II – UNCLOS AND THE STATUS OF THE KINGDOM</b>	<b>9</b>
3 Application of UNCLOS to the Kingdom .....	9
<b>PART III – BASELINES</b>	<b>9</b>
4 Baselines .....	9
5 Closing lines for internal waters .....	10
<b>PART IV – INTERNAL WATERS, ARCHIPELAGIC WATERS, HISTORIC WATERS AND TERRITORIAL SEA</b>	<b>10</b>
6 Historic waters .....	10
7 Territorial sea.....	10
8 Legal status and ownership.....	10
9 Sovereignty in internal waters .....	11
10 Sovereignty in archipelagic waters .....	11
<b>PART V – CONTIGUOUS ZONE AND EXCLUSIVE ECONOMIC ZONE</b>	<b>11</b>
11 Contiguous zone .....	11
12 Exclusive Economic Zone .....	11
13 Rights, jurisdiction and duties.....	12
14 Exercise of jurisdiction .....	12

<b>PART VI – CONTINENTAL SHELF</b>	<b>13</b>
15 Continental shelf .....	13
16 Rights .....	13
17 Exercise of jurisdiction.....	13
<b>PART VII – MARINE SCIENTIFIC RESEARCH, UNDERWATER CULTURAL HERITAGE AND BOUNDARIES WITH OTHER STATES</b>	<b>14</b>
18 Marine scientific research in the maritime zones .....	14
19 Underwater cultural heritage .....	14
20 Maritime cultural zone .....	14
21 Delimitation of the boundaries of maritime zones with other States .....	14
<b>PART VIII – REGULATIONS</b>	<b>15</b>
22 Regulations.....	15
<b>PART IX – OFFENCES AND CRIMINAL RESPONSIBILITY</b>	<b>18</b>
23 Offences .....	18
24 Responsibility.....	18
<b>PART X – TRANSITIONAL</b>	<b>19</b>
25 Transitional and saving provisions.....	19
<b>SCHEDULE 1</b>	<b>20</b>
TERRITORIAL SEA AND CONTIGUOUS ZONE	20
<b>SCHEDULE 2</b>	<b>31</b>
ARCHIPELAGIC STATES	31
Article 47 - Archipelagic baselines.....	31
<b>SCHEDULE 3</b>	<b>35</b>
EXCLUSIVE ECONOMIC ZONE	35
<b>SCHEDULE 4</b>	<b>47</b>
CONTINENTAL SHELF	47
<b>SCHEDULE 5</b>	<b>52</b>
CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE	52
Article 2 – Objectives and general principles.....	54

Article 3 – Relationship between this Convention and the United Nations Convention on the Law of the Sea.....	55
Article 4 – Relationship to law of salvage and law of finds.....	55
Article 5 – Activities incidentally affecting underwater cultural heritage .....	55
Article 6 – Bilateral, regional or other multilateral agreements .....	55
Article 7 – Underwater cultural heritage in internal waters, archipelagic waters and territorial sea .....	56
Article 8 – Underwater cultural heritage in the contiguous zone .....	56
Article 9 – Reporting and notification in the exclusive economic zone and on the continental shelf.....	56
Article 10 – Protection of underwater cultural heritage in the exclusive economic zone and on the continental shelf.....	57
Article 11 – Reporting and notification in the Area.....	59
Article 12 – Protection of underwater cultural heritage in the Area .....	59
Article 13 – Sovereign immunity .....	60
Article 14 – Control of entry into the territory, dealing and possession .....	60
Article 15 – Non-use of areas under the jurisdiction of States Parties.....	60
Article 16 – Measures relating to nationals and vessels.....	61
Article 17 – Sanctions .....	61
Article 18 – Seizure and disposition of underwater cultural heritage .....	61
Article 19 – Cooperation and information-sharing .....	61
Article 20 – Public awareness .....	62
Article 21 – Training in underwater archaeology.....	62
Article 22 – Competent authorities .....	62
Article 23 – Meetings of States Parties .....	63
Article 24 – Secretariat for this Convention.....	63
Article 25 – Peaceful settlement of disputes .....	63
Article 26 – Ratification, acceptance, approval or accession.....	64
Article 27 – Entry into force.....	65
Article 28 – Declaration as to inland waters .....	65
Article 29 – Limitations to geographical scope.....	65
Article 30 – Reservations .....	65
Article 31 – Amendments .....	65

---

**SCHEDULE 6** **67**

**RULES CONCERNING ACTIVITIES DIRECTED AT UNDERWATER  
CULTURAL HERITAGE** **67**





Tonga

## MARITIME ZONES ACT

### SOVEREIGN RIGHTS OF THE KINGDOM, AND THE EXPLORATION, EXPLOITATION, PROTECTION, PRESERVATION, CONSERVATION AND MANAGEMENT OF THOSE ZONES, AND FOR MATTERS CONCERNED WITH THOSE PURPOSES<sup>1</sup>

Commencement [26<sup>th</sup> July 2013]

## PART I – PRELIMINARY

### 1 Short title

This Act may be cited as the Maritime Zones Act.

### 2 Interpretation

(1) In this Act, unless the context otherwise requires —

“**archipelagic baselines**” means baselines determined in accordance with section 4(a);

“**archipelagic waters**” means any waters, other than internal waters, enclosed by archipelagic baselines;

“**baselines**” means baselines prescribed in accordance with section 4;

“**closing lines**” means the lines referred to in section 5;

“**contiguous zone**” means the area of sea referred to in section 11;

“**continental shelf**” means the seabed and subsoil of the submarine area referred to in section 15;

“**exclusive economic zone**” means the zone prescribed in accordance with section 12;

“**historic waters**” means waters prescribed or declared in accordance with section 6;

“**innocent passage**” has the meaning given to that expression by article 19 of UNCLOS which is set out in Schedule I;

“**internal waters**” means:

- (a) in respect of archipelagic waters, all waters landward of the closing lines: and
- (b) in any other case, all waters landward of any baselines;

“**low-water line**” means the lowest astronomical tide level on the coast of the Kingdom as recommended by the International Hydrographic Organisation;

“**maritime cultural zone**” means the area of sea referred to in section 20;

“**maritime zones**” means the:

- (a) archipelagic waters;
- (b) contiguous zone;
- (c) exclusive economic zone;
- (d) continental shelf;
- (e) historic waters;
- (f) internal waters;
- (g) maritime cultural zone; and
- (h) territorial sea;

“**natural resources**” means —

- (a) the mineral and other non-living resources of the seabed and subsoil; and
- (b) the living organisms belonging to sedentary species;

“**nautical mile**” means a distance of 1.852 kilometers;

“**radioactive materials**” means waste that, as a result of being radioactive, is subject to an international control system or international instrument applying specifically to radioactive materials;

“**sedentary species**” means organisms that, at their harvestable stage —

- (a) are immobile on or under the seabed; or
- (b) are unable to move except in constant physical contact with the seabed or the subsoil.

“**territorial sea**” means the sea referred to in section 7;



“UNCLOS” means the United Nations Convention on the Law of the Sea of 10 December 1982; and

“UNESCO Convention” means the UNESCO Convention on the Protection of the Underwater Cultural Heritage 2001.

- (2) The provisions of UNCLOS and the UNESCO Convention mentioned in this Act and other relevant provisions of those conventions are set out in the Schedules to this Act.

## PART II – UNCLOS AND THE STATUS OF THE KINGDOM

### 3 Application of UNCLOS to the Kingdom

- (1) UNCLOS and any protocols, annexes, appendices and addenda to UNCLOS, are incorporated into and have the force of law in the Kingdom.
- (2) The Kingdom, being a State constituted wholly by one or more archipelagos and other islands, declares itself to be an archipelagic State for the purpose of the application of UNCLOS to the Kingdom.
- (3) The Kingdom also declares that it has an exclusive economic zone as provided for by UNCLOS.
- (4) A copy of UNCLOS shall be kept by the Ministry of Foreign Affairs and may be made available to the public for inspection.

## PART III – BASELINES

### 4 Baselines

Subject to section 22(1)(a), the baselines which shall be used to determine the maritime zones of the Kingdom shall consist of a combination of the following —

- (a) straight archipelagic baselines determined in the manner prescribed in Article 47 of UNCLOS; or
- (b) normal baselines, being —
  - (i) baselines that follow the low-water line in the manner mentioned in Article 5 of UNCLOS;
  - (ii) baselines that follow the seaward low-water line of fringing reefs in the manner mentioned in Article 6 of UNCLOS; and
  - (iii) straight baselines prescribed in the manner mentioned in Article 7 of UNCLOS.

## 5 Closing lines for internal waters

Subject to section 22(b), the closing lines may be determined by using all or any of the methods mentioned in articles 9, 10 and 11 of UNCLOS.

# PART IV – INTERNAL WATERS, ARCHIPELAGIC WATERS, HISTORIC WATERS AND TERRITORIAL SEA

## 6 Historic waters

- (1) It is hereby declared that those parts of the sea that are within an area mentioned in subsection (2) are historic waters notwithstanding the fact that they may also be part of any other maritime zone.
- (2) The areas referred to in subsection (1) are —
  - (a) the areas proclaimed by the Proclamation published on the 24th day of August, 1887 limiting and defining the extent of the Kingdom, being the islands, rocks, reefs, foreshores and waters lying between the fifteenth and twenty-third and half degrees of south latitudes and the one hundred and seventy-third and the one hundred and seventy-seventh degrees of west longitude; and
  - (b) the area bounded by the Proclamation made on the 15th day of June, 1972 affirming and proclaiming Teleki Tokelau and Teleki Tonga to be part of the Kingdom.

## 7 Territorial sea

- (1) The territorial sea of the Kingdom shall be the sea between the baselines, prescribed under section 4, and a line every point of which is at a distance of 12 nautical miles from the nearest point of the baselines.
- (2) Subject to UNCLOS, ships of all States, whether coastal or land-locked, shall enjoy the right of innocent passage through the territorial seas of the Kingdom.

## 8 Legal status and ownership

- (1) Subject to the exceptions specified in UNCLOS, the sovereignty of the Kingdom extends to and has always extended to internal waters, archipelagic waters, historic waters and the territorial sea.
- (2) Subject to the exceptions specified in UNCLOS, the sovereignty of the Kingdom, extends to and has always extended to the air space over internal waters, archipelagic waters, historic waters and the territorial sea, as well as to their beds and subsoil, and the resources contained in them.

- (3) Unless a contrary intention appears, any law in force in the Kingdom extends to internal waters, archipelagic waters, historic waters and the territorial sea.
- (4) The air space over internal waters, archipelagic waters, historic waters and the territorial sea, and their beds and subsoil, and the resources contained in them, are vested in and have always been vested in the Crown.
- (5) Subsection (4) is subject to the grant of an interest whether made by or pursuant to any enactment or otherwise and whether made before or after the commencement of this Act.

## **9 Sovereignty in internal waters**

If any straight closing lines prescribed in accordance with section 5, has the effect of enclosing as internal waters areas that had not previously been considered as such, a right of innocent passage as provided for in UNCLOS shall exist in those waters.

## **10 Sovereignty in archipelagic waters**

- (1) The exercise by the Kingdom of its sovereignty in archipelagic waters is subject to —
  - (a) any rights set out in any agreement between the Kingdom and any other State; and
  - (b) any rights in respect of submarine cables, existing at the time the archipelagic waters are established.
- (2) The exercise by the Kingdom of its sovereignty in archipelagic waters is also subject to the right of innocent passage.

# **PART V – CONTIGUOUS ZONE AND EXCLUSIVE ECONOMIC ZONE**

## **11 Contiguous zone**

The contiguous zone of the Kingdom shall be the area of sea between the territorial sea and a line every point of which is at a distance of 24 nautical miles from the nearest point of the baselines.

## **12 Exclusive Economic Zone**

- (1) The exclusive economic zone of the Kingdom shall be the area beyond and adjacent to the territorial sea of the Kingdom out to a line every point of which is at a distance of 200 nautical miles from the nearest point of the baselines.

- (2) The King in Council may, by Order, prescribe the exclusive economic zone outer limit line as determined in accordance with subsection (1).

### 13 Rights, jurisdiction and duties

- (1) The Kingdom has in its exclusive economic zone sovereign rights, in accordance with Article 56 of UNCLOS and other applicable rules of international law —
  - (a) to explore and exploit, conserve and manage the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil; and
  - (b) with regard to other activities, to the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.
- (2) The Kingdom has jurisdiction in the exclusive economic zone, in accordance with international law, in respect of:
  - (a) the establishment and use of artificial islands, installations and structures;
  - (b) marine scientific research; and
  - (c) the protection and preservation of the marine environment.
- (3) The Kingdom also has jurisdiction in the exclusive economic zone in respect of such other rights and duties as is provided for by international law.
- (4) The rights set out in this section with respect to the seabed and subsoil are exercisable in accordance with international law, in particular, Part VI of UNCLOS.

### 14 Exercise of jurisdiction

- (1) To enable the Kingdom to exercise the sovereign rights and jurisdiction it has in the exclusive economic zone, there is hereby extended to that zone, to the extent recognized by international law, the law in force in the Kingdom.
- (2) The laws of the Kingdom applies to artificial islands, installations and structures in the exclusive economic zone as if they were in the territorial sea.
- (3) In exercising its rights and performing its duties in the exclusive economic zone, the Kingdom shall —
  - (a) have due regard to the rights and duties of other States; and
  - (b) act in a manner compatible with international law.

## PART VI – CONTINENTAL SHELF

### 15 Continental shelf

The continental shelf of the Kingdom comprises the seabed and subsoil of the submarine area, that extends beyond its territorial sea, throughout the natural prolongation of its land territory:

- (a) subject to paragraph 2 of article 76 of UNCLOS, to the outer edge of the continental margin; or
- (b) 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.

### 16 Rights

- (1) The Kingdom may, in accordance with international law and in particular article 77 of UNCLOS, exercise exclusive sovereign rights over the continental shelf to explore it and to exploit its natural resources.
- (2) The Kingdom has, in accordance with Article 80 of UNCLOS, the exclusive right to construct and to authorize and to regulate the construction, operation and use in the continental shelf of —
  - (a) artificial islands;
  - (b) installations and structures for the purposes provided for in article 77 of UNCLOS; and
  - (c) installations and structures that may interfere with the exercise of the rights of the Kingdom in the continental shelf.
- (3) The Kingdom has exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

### 17 Exercise of jurisdiction

- (1) Subject to subsection (2), the law in force in the Kingdom extends to its continental shelf.
- (2) It extends to the extent —
  - (a) necessary to enable the Kingdom to exercise the sovereign rights and jurisdiction it has in the continental shelf; and
  - (b) to the extent recognized by international law.
- (3) The laws of the Kingdom apply to artificial islands, installations and structures on the continental shelf as if they were in the territorial sea.

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## **PART VII – MARINE SCIENTIFIC RESEARCH, UNDERWATER CULTURAL HERITAGE AND BOUNDARIES WITH OTHER STATES**

### **18 Marine scientific research in the maritime zones**

- (1) The Kingdom has sovereign rights, as provided by international law and in particular article 245 of UNCLOS, to regulate, authorise and conduct marine scientific research in the territorial sea.
- (2) The Kingdom, in the exercise of its jurisdiction has the right, as provided by international law and in particular article 246 of UNCLOS, to regulate, authorise and conduct marine scientific research —
  - (a) in its exclusive economic zone; and
  - (b) on its continental shelf,in accordance with the relevant provisions of UNCLOS.

### **19 Underwater cultural heritage**

The Kingdom, as provided by international law and in particular paragraph 1 of Article 7 of the UNESCO Convention, in the exercise of its sovereignty, has the exclusive right to regulate and authorise activities directed at underwater cultural heritage in internal waters, archipelagic waters and the territorial sea.

### **20 Maritime cultural zone**

The maritime cultural zone of the Kingdom is the area of sea coincident with the contiguous zone.

### **21 Delimitation of the boundaries of maritime zones with other States**

In accordance with international law and in particular UNCLOS, the delimitation of any maritime zone between the Kingdom and any State with an opposite or adjacent coast is to be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

## PART VIII – REGULATIONS

### 22 Regulations

- (1) His Majesty in Council may make regulations —
  - (a) prescribing the baselines from which the maritime zones of the Kingdom are to be determined;
  - (b) prescribing closing lines to delimit internal waters;
  - (c) in accordance with international law, prescribing the limits of any historic waters of the Kingdom;
  - (d)
    - (i) to designate the sea lanes and air routes to be used by foreign ships and aircraft in passage through or over any archipelagic waters, historical waters, territorial sea and internal waters; and
    - (ii) to prescribe traffic separation schemes to be observed by ships in passage through narrow channels in the sea lanes;
  - (e) regulating the passage of ships carrying hazardous waste, and nuclear and radioactive materials through all or any part of the archipelagic waters, historical waters, territorial sea and internal waters;
  - (f) providing that ships carrying radioactive materials are not to pass through any part of the archipelagic waters, historical waters, territorial sea or internal waters unless —
    - (i) prior notification of the intended passage of the ship through those waters or sea has been given in accordance with the regulations; and
    - (ii) prior authorisation and consent for the passage, specifying the route to be taken by the ship, has been given;
  - (g) suspending temporarily the innocent passage of foreign ships in a specified area of any archipelagic waters, historical waters, territorial sea or internal waters if the suspension is necessary to protect the security of the Kingdom.
  - (h) in the case of paragraph (d),(e),(f) and (g), providing for the action that may be taken, including stopping and boarding ships, to ensure compliance;
  - (i) that permit in the contiguous zone the exercise of controls necessary to —
    - (i) prevent infringement of the customs, fiscal, immigration or sanitary laws and regulations within the Kingdom, its territorial sea, archipelagic waters, historical waters and internal waters; and

- (ii) punish any infringement of those laws and regulations committed within the Kingdom, its territorial sea, archipelagic waters and internal waters;
- (j)
  - (i) that provide for the authorisation of persons to explore for non-living natural resources in the exclusive economic zone or continental shelf or to recover or attempt to recover any such resources in accordance with terms and conditions determined by the Prime Minister with the consent of Cabinet;
  - (ii) that delineate the course to be followed by any person when laying pipelines or cables in the exclusive economic zone or continental shelf;
  - (iii) that provide for the authorization and regulation of any drilling in the exclusive economic zone or continental shelf; and
  - (iv) that regulate the construction, operation and use of —
    - (a) artificial islands;
    - (b) installations and structures for the purposes provided for in article 56 or 77 of UNCLOS; and
    - (c) installations and structures that may interfere with the exercise of the rights of the Kingdom in its exclusive economic zone or continental shelf;
- (k) to determine the outer limits of its continental shelf in accordance with article 76 of UNCLOS and may provide for the outer limits to be determined by either of the methods mention in paragraph 4 of article 76 of UNCLOS;
- (l)
  - (i) that ensure that marine scientific research is not conducted in any maritime zone except with and in accordance with the express consent of the Prime Minister acting with the approval of the Cabinet; and
  - (ii)
    - (a) establish procedures that ensure that consent for marine scientific research is not delayed or denied unreasonably;
    - (b) comply with the provisions of articles 245 to 253 of UNCLOS so far as they relate to any proposed marine scientific research;
    - (c) ensure that those given consent make the results of their work available to the Kingdom; and
    - (d) ensure that in appropriate cases, property rights that the Kingdom has in any flora or fauna are recognized and vested in the Kingdom;
- (m) notwithstanding any other enactment, to protect and preserve the marine environment and to prevent, reduce and control pollution of the marine environment:



- (i) from land-based sources, including rivers, estuaries, pipelines and outfall structures;
  - (ii) from or in connection with seabed activities subject to its jurisdiction and from artificial islands, installations and structures under its jurisdiction, pursuant to articles 60 and 80 of UNCLOS;
  - (iii) by dumping; and
  - (iv) from or through the atmosphere, applicable to the air space under its sovereignty and to vessels flying its flag or vessels or aircraft of its registry;
- (n) to regulate and authorise activities directed at underwater cultural heritage in internal waters, archipelagic waters and the territorial sea;
- (o) (i) in accordance with article 8 of the UNESCO Convention, to regulate and authorise activities directed at underwater cultural heritage within the contiguous zone; and
- (ii) ensure that the Rules Concerning Activities Directed at Underwater Cultural Heritage set out in the Annex to the UNESCO Convention are applied,
- (p) in accordance with international law and in particular article 10 of the UNESCO Convention, to prohibit or authorize any activity directed at underwater cultural heritage in the exclusive economic zone or the continental shelf to prevent interference with the sovereign rights and jurisdiction of the Kingdom, as provided for by international law including UNCLOS; and
- (q) as may be necessary or convenient for carrying out the purposes of this Act.
- (2) Subject to subsection 1 (i),(j),(l),(m),(n) and (o), the regulations may —
- (a) provide that an Act, and any subsidiary enactment made under it, that extends to a maritime zone shall extend to that zone with such amendment as are prescribed by the regulations;
  - (b) prescribe fees, forms and procedures;
  - (c) provide for the payment of royalties and other charges, and the manner in which they are to be calculated;
  - (d) provide for the confiscation of property in respect of an offence committed in a maritime zone;
  - (e) provide for the appointment of officers necessary for the administration of the regulations and prescribe their powers and duties;
  - (f) include savings, transitional, ancillary, consequential and supplementary provisions.
- (3) The lines delineating maritime zones shall be prescribed in regulations —
- (a) as lists of geographical coordinates of points, specifying the geodetic datum;

- (b) by reference to charts of a scale or scales adequate for ascertaining the position of the baselines and other limits; or
  - (c) where it is appropriate or necessary to do so, by using both the methods mentioned in paragraphs (a) and (b).
- (4) Due publicity shall be given to the lists of geographical coordinates or such charts, or both, in accordance with UNCLOS.
- (5) A copy of the regulations and of the charts shall be deposited with the Secretary-General of the United Nations.

## PART IX – OFFENCES AND CRIMINAL RESPONSIBILITY

### 23 Offences

- (1) A person who contravenes a provision of any regulations made under this Act is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable —
- (a) in the case of an individual, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 15 years; or
  - (b) in the case of a body corporate, to a fine not exceeding \$500,000.

### 24 Responsibility

- (1) If an offence under section 23 that has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of:
- (a) a director, manager, secretary or other similar officer of the body corporate; or
  - (b) a person who was purporting to act in any such capacity,
- that person, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

## PART X – TRANSITIONAL

### 25 Transitional and saving provisions

- (1) Subject to sections 4 and 22(1)(a) the baselines, territorial sea, exclusive economic zone and continental shelf shall, for the purposes of this Act, be taken to be those that existed under the Territorial Sea and Exclusive Economic Zone Act and the Continental Shelf Act immediately before the commencement of this Act.
- (2) Any area of sea designated by His Majesty in Council for the purposes of the Continental Shelf Act shall, on the commencement of this Act, be taken to have been designated to be and as always to have been part of the continental shelf of the Kingdom.
- (3) Any agreements or regulations made for the purposes of the Territorial Sea and Exclusive Economic Zone Act and the Continental Shelf Act, and in force immediately before the commencement of this Act, shall continue in force as if made under this Act to the extent they are not inconsistent with this Act, and may be repealed or replaced in accordance with this Act.<sup>2</sup>

**SCHEDULE 1**

## Part II of the Law of the Sea Convention

**TERRITORIAL SEA AND CONTIGUOUS ZONE**

## SECTION 1 - GENERAL PROVISIONS

**Article 2 – Legal 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, to 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 this Convention and to other rules of international law.

## SECTION 2 - LIMITS OF THE TERRITORIAL SEA

**Article 3 – 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 this Convention.

**Article 4 - 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 5 - Normal baseline**

Except where otherwise provided in this 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 6 - 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 charts officially recognized by the coastal State.

**Article 7- 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, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.
- 3 The drawing of straight 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 regime 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 long usage.
- 6 The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

**Article 8 - Internal waters**

- 1 Except as provided in Part IV, 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 the method set forth in article 7 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 this Convention shall exist in those waters.

**Article 9 - 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-water line of its banks.

**Article 10 - Bays**

- 1 This article relates only to bays the coasts of which belong to a single State.
- 2 For the purposes of this 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 24 nautical 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 nautical miles, a straight baseline of 24 nautical 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 7 is applied.

### **Article 11 - 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. Off-shore installations and artificial islands shall not be considered as permanent harbour works.

### **Article 12 - 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 13 - 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 14 - 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 15 - 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. The above provision 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 therewith.

### **Article 16 - Charts and lists of geographical coordinates**

- 1 The baselines for measuring the breadth of the territorial sea determined in accordance with articles 7, 9 and 10, or the limits derived therefrom, and the lines of delimitation drawn in accordance with articles 12 and 15 shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, a list of geographical coordinates of points, specifying the geodetic datum, may be substituted.
- 2 The coastal State shall give due publicity to such charts or lists of geographical coordinates 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 17 - Right of innocent passage**

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

### **Article 18 - 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 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 19 - 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 this 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 loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
  - (h) any act of wilful and serious pollution contrary to this 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 20 - 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 21 - Laws and regulations of the coastal State relating to innocent passage**

- 1 The coastal State may adopt laws and regulations, in conformity with the provisions of this 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 maritime 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 laws and regulations of the coastal State;
  - (f) the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof;
  - (g) marine scientific research and hydrographic surveys;
  - (h) the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State.
- 2 Such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.
  - 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 22 - 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 the competent international organization;
  - (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 on charts to which due publicity shall be given.

#### **Article 23 - 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 24 - 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 this Convention. In particular, in the application of this Convention or of any laws or regulations adopted in conformity with this 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 danger to navigation, of which it has knowledge, within its territorial sea.

#### **Article 25 - 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 in form or in fact among 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, including weapons exercises. Such suspension shall take effect only after having been duly published.

#### **Article 26 - 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 27 - 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 connection 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 master of the ship or by a 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 master so requests, notify a diplomatic agent or consular officer of the flag State before taking any steps, and shall facilitate contact between such agent or officer and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.
- 4 In considering whether or in what manner an arrest should be made, the local authorities shall have due regard to the interests of navigation.
- 5 Except as provided in Part XII or with respect to violations of laws and regulations adopted in accordance with Part V, 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 connection 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 28 - 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 29 - Definition of warships**

For the purposes of this 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 30 - Non-compliance by warships with 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 therewith which is made to it, the coastal State may require it to leave the territorial sea immediately.

##### **Article 31 - Responsibility of the flag State for damage caused by a warship or other government ship 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 this Convention or other rules of international law.

##### **Article 32 - Immunities of warships and other government ships operated for non-commercial purposes**

With such exceptions as are contained in subsection A and in articles 30 and 31, nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

SECTION 4  
CONTIGUOUS ZONE

**Article 33 - 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 laws and regulations within its territory or territorial sea;
  - (b) punish infringement of the above laws and 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.

**SCHEDULE 2****PART IV OF THE LAW OF THE SEA CONVENTION****ARCHIPELAGIC STATES****Article 46 – Use of terms**

For the purposes of this 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, interconnecting 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 47 - 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 1 to 1 and 9 to 1.
- 2 The length of such baselines shall not exceed 100 nautical miles, except that up to 3 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 If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.

- 7 For the purpose 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.
- 8 The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted.
- 9 The archipelagic State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

#### **Article 48 - 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 archipelagic baselines drawn in accordance with article 47.

#### **Article 49 - Legal 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 archipelagic baselines drawn in accordance with article 47, 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, as well as to their bed and subsoil, and the resources contained therein.
- 3 This sovereignty is exercised subject to this Part.
- 4 The regime of archipelagic sea lanes passage established in this Part shall not in other respects affect the status of the archipelagic waters, including the sea lanes, or the exercise by the archipelagic State of its sovereignty over such waters and their air space, bed and subsoil, and the resources contained therein.

#### **Article 50 - 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 9, 10 and 11.



**Article 51 - Existing agreements, traditional fishing rights and existing submarine cables**

- 1 Without prejudice to article 49, an archipelagic State 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 for 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 An archipelagic State shall respect existing submarine cables laid by other States and passing through its waters without making a landfall. An archipelagic State shall permit the maintenance and replacement of such cables upon receiving due notice of their location and the intention to repair or replace them.

**Article 52 - Right of innocent passage**

- 1 Subject to article 53 and without prejudice to article 50, ships of all States enjoy the right of innocent passage through archipelagic waters, in accordance with Part II, section 3.
- 2 The archipelagic State may, without discrimination in form or in fact among 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 53 - Right of archipelagic sea lanes passage**

- 1 An archipelagic State may designate sea lanes and air routes thereabove, suitable for the 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 means the exercise in accordance with this Convention of the rights of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious and unobstructed 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 archipelagic waters and the adjacent territorial sea and shall include all normal passage routes used as routes for international navigation or overflight through or over archipelagic

waters 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 Such sea lanes and air routes shall be defined by a series of continuous axis lines from the entry points of passage routes to the exit points. Ships and aircraft in archipelagic sea lanes passage shall not deviate more than 25 nautical miles to either side of such axis lines during passage, provided that such ships and aircraft shall not navigate closer to the coasts than 10 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 In 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 the axis of the sea lanes and the traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.
- 11 Ships in archipelagic sea lanes passage 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 54 - Duties of ships and aircraft during their passage, research and survey activities, duties of the archipelagic State and laws and regulations of the archipelagic State relating to archipelagic sea lanes passage**

Articles 39, 40, 42 and 44 apply mutatis mutandis to archipelagic sea lanes passage.

**SCHEDULE 3****PART V OF THE LAW OF THE SEA CONVENTION****EXCLUSIVE ECONOMIC ZONE****Article 55 - Specific legal regime of the exclusive economic zone**

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

**Article 56 - Rights, jurisdiction and duties of the coastal State in the exclusive economic zone**

- 1 In 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 waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;
  - (b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:
    - (i) the establishment and use of artificial islands, installations and structures;
    - (ii) marine scientific research;
    - (iii) the protection and preservation of the marine environment;
  - (c) other rights and duties provided for in this Convention.
- 2 In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.
- 3 The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.

**Article 57 - 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 58 - 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 this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.
- 2 Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.
- 3 In exercising their rights and performing their duties under this 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 adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

**Article 59 - Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the exclusive economic zone**

In cases where this 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 60 - 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 56 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 laws and 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 shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not 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 competent international organization. Due notice shall be given of the extent of safety zones.
- 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.
- 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 do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

#### **Article 61 - 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 competent international organizations, whether subregional, regional or global, shall cooperate 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 States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global.
- 4 In taking 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 competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

#### **Article 62 - 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 61.
- 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, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.
- 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 69 and 70, the requirements of developing States 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 laws and regulations of the coastal State. These laws and

regulations shall be consistent with this 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 types, sizes and number 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 cooperative arrangements;
  - (j) requirements for the training of personnel and the 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 laws and regulations.

**Article 63 - 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 coordinate and ensure

the conservation and development of such stocks without prejudice to the other provisions of this Part.

- 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 64 - Highly migratory species**

- 1 The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall cooperate 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 for which no appropriate international organization exists, the coastal State and other States whose nationals harvest these species in the region shall cooperate 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 Part.

#### **Article 65 - Marine mammals**

Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this part. States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

#### **Article 66 - 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 landward of the outer limits of its exclusive economic zone and for fishing provided for in paragraph 3(b). The State of origin may, after consultations with the other States referred to in paragraphs 3 and 4 fishing these stocks, establish total allowable catches for stocks originating in its rivers.
- 3



- (a) Fisheries for anadromous stocks shall be conducted only in waters landward 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. With respect to such fishing beyond the outer limits of the exclusive economic zone, States concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and the needs of the State of origin in respect of these stocks.
  - (b) The State of origin shall cooperate 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 landward of the outer limits of the exclusive economic zone of a State other than the State of origin, such State shall cooperate 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 67 - 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 landward of the outer limits of exclusive economic zones. When conducted in exclusive economic zones, harvesting shall be subject to this article and the other provisions of this Convention concerning fishing in these zones.
- 3 In cases where catadromous fish migrate through the exclusive economic zone of another State, 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 other State 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 68 - Sedentary species**

This Part does not apply to sedentary species as defined in article 77, paragraph 4.

### **Article 69 - Right of land-locked States**

- 1 Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.
- 2 The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia* —
  - (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;
  - (b) the extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;
  - (c) the extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;
  - (d) the nutritional needs of the populations of the respective States.
- 3 When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account.

- 4 Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.
- 5 The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

#### **Article 70 - Right of geographically disadvantaged States**

- 1 Geographically disadvantaged States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.
- 2 For the purposes of this Part, “geographically disadvantaged States” means coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own.
- 3 The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, inter alia:
  - (a) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;
  - (b) the extent to which the geographically disadvantaged State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;
  - (c) the extent to which other geographically disadvantaged States and land-locked States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;

- (d) the nutritional needs of the populations of the respective States.
- 4 When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall cooperate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing geographically disadvantaged States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 3 shall also be taken into account.
  - 5 Developed geographically disadvantaged States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.
  - 6 The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to geographically disadvantaged States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

#### **Article 71 - Non-applicability of articles 69 and 70**

The provisions of articles 69 and 70 do not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

#### **Article 72 - Restrictions on transfer of rights**

- 1 Rights provided under articles 69 and 70 to exploit living resources shall not be directly or indirectly transferred to third States or their nationals by lease or licence, by establishing joint ventures or in any other manner which has the effect of such transfer unless otherwise agreed by the States concerned.
- 2 The foregoing provision does not preclude the States concerned from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights pursuant to articles 69 and 70, provided that it does not have the effect referred to in paragraph 1.

**Article 73 - 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 adopted by it in conformity with this 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 laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements 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 the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

**Article 74 - Delimitation of the exclusive economic zone between States with opposite or adjacent coasts**

- 1 The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.
- 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 XV.
- 3 Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.
- 4 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 75 - Charts and lists of geographical coordinates**

- 1 Subject to this Part, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 74 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical coordinates 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 coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

**SCHEDULE 4****PART VI OF THE LAW OF THE SEA CONVENTION****CONTINENTAL SHELF****Article 76 - Definition of the continental shelf**

4

- (a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either —
- (i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or
  - (ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.
- (b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

5 The fixed points comprising the line of the outer limits of the continental shelf on the seabed, drawn in accordance with paragraph 4 (a)(i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

6 Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

7 The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by coordinates of latitude and longitude.

8 Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the

Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

- 9 The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.
- 10 The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

#### **Article 77 - 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 Part consist of the mineral and other non-living resources of the seabed 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 seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

#### **Article 78 - Legal status of the superjacent waters and air space and the rights and freedoms of other States**

- 1 The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.
- 2 The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

#### **Article 79 - 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, reduction and control 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 Part 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 connection 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 have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

#### **Article 80 - Artificial islands, installations and structures on the continental shelf**

Article 60 applies mutatis mutandis to artificial islands, installations and structures on the continental shelf.

#### **Article 81 - 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 82 - Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical 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 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connection with exploitation.

- 3 A developing State which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.
- 4 The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them.

#### **Article 83 - Delimitation of the continental shelf between States with opposite or adjacent coasts**

- 1 The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.
- 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 XV.
- 3 Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.
- 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 84 - Charts and lists of geographical coordinates**

- 1 Subject to this Part, the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 83 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical coordinates 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 coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations and, in the case of those showing the outer limit lines of the continental shelf, with the Secretary-General of the Authority.

**Article 85 - tunnel**

This Part 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.

**SCHEDULE 5****CONVENTION ON THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE**

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 15 October to 3 November 2001, at its 31st session,

Acknowledging the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations, and their relations with each other concerning their common heritage,

Realizing the importance of protecting and preserving the underwater cultural heritage and that responsibility therefor rests with all States,

Noting growing public interest in and public appreciation of underwater cultural heritage,

Convinced of the importance of research, information and education to the protection and preservation of underwater cultural heritage,

Convinced of the public's right to enjoy the educational and recreational benefits of responsible non-intrusive access to in situ underwater cultural heritage, and of the value of public education to contribute to awareness, appreciation and protection of that heritage,

Aware of the fact that underwater cultural heritage is threatened by unauthorized activities directed at it, and of the need for stronger measures to prevent such activities,

Conscious of the need to respond appropriately to the possible negative impact on underwater cultural heritage of legitimate activities that may incidentally affect it,

Deeply concerned by the increasing commercial exploitation of underwater cultural heritage, and in particular by certain activities aimed at the sale, acquisition or barter of underwater cultural heritage,

Aware of the availability of advanced technology that enhances discovery of and access to underwater cultural heritage,

Believing that cooperation among States, international organizations, scientific institutions, professional organizations, archaeologists, divers, other interested parties and the public at large is essential for the protection of underwater cultural heritage,

Considering that survey, excavation and protection of underwater cultural heritage necessitate the availability and application of special scientific methods and the use of suitable techniques and equipment as well as a high degree of professional specialization, all of which indicate a need for uniform governing criteria,

Realizing the need to codify and progressively develop rules relating to the protection and preservation of underwater cultural heritage in conformity with international law and practice, including the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, the UNESCO Convention for the Protection of the World Cultural and Natural Heritage of 16 November 1972 and the United Nations Convention on the Law of the Sea of 10 December 1982,

Committed to improving the effectiveness of measures at international, regional and national levels for the preservation in situ or, if necessary for scientific or protective purposes, the careful recovery of underwater cultural heritage,

Having decided at its twenty-ninth session that this question should be made the subject of an international convention,

## Article 1 – Definitions

- 1 For the purposes of this Convention —
  - (a) “**Underwater cultural heritage**” means all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as —
    - (i) sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;
    - (ii) vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context; and
    - (iii) objects of prehistoric character.
  - (b) Pipelines and cables placed on the seabed shall not be considered as underwater cultural heritage.
  - (c) Installations other than pipelines and cables, placed on the seabed and still in use, shall not be considered as underwater cultural heritage.
- 2
  - (a) “**States Parties**” means States which have consented to be bound by this Convention and for which this Convention is in force.
  - (b) This Convention applies mutatis mutandis to those territories referred to in Article 26, paragraph 2(b), which become Parties to this Convention in accordance with the conditions set out in that paragraph, and to that extent “States Parties” refers to those territories.
- 3 “**UNESCO**” means the United Nations Educational, Scientific and Cultural Organization.
- 4 “**Director-General**” means the Director-General of UNESCO.

- 5 “**Area**” means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.
- 6 “**Activities directed at underwater cultural heritage**” means activities having underwater cultural heritage as their primary object and which may, directly or indirectly, physically disturb or otherwise damage underwater cultural heritage.
- 7 “**Activities incidentally affecting underwater cultural heritage**” means activities which, despite not having underwater cultural heritage as their primary object or one of their objects, may physically disturb or otherwise damage underwater cultural heritage.
- 8 “**State vessels and aircraft**” means warships, and other vessels or aircraft that were owned or operated by a State and used, at the time of sinking, only for government non-commercial purposes, that are identified as such and that meet the definition of underwater cultural heritage.
- 9 “**Rules**” means the Rules concerning activities directed at underwater cultural heritage, as referred to in Article 33 of this Convention.

## Article 2 – Objectives and general principles

- 1 This Convention aims to ensure and strengthen the protection of underwater cultural heritage.
- 2 States Parties shall cooperate in the protection of underwater cultural heritage.
- 3 States Parties shall preserve underwater cultural heritage for the benefit of humanity in conformity with the provisions of this Convention.
- 4 States Parties shall, individually or jointly as appropriate, take all appropriate measures in conformity with this Convention and with international law that are necessary to protect underwater cultural heritage, using for this purpose the best practicable means at their disposal and in accordance with their capabilities.
- 5 The preservation in situ of underwater cultural heritage shall be considered as the first option before allowing or engaging in any activities directed at this heritage.
- 6 Recovered underwater cultural heritage shall be deposited, conserved and managed in a manner that ensures its long-term preservation.
- 7 Underwater cultural heritage shall not be commercially exploited.
- 8 Consistent with State practice and international law, including the United Nations Convention on the Law of the Sea, nothing in this Convention shall be interpreted as modifying the rules of international law and State practice pertaining to sovereign immunities, nor any State’s rights with respect to its State vessels and aircraft.

- 9 States Parties shall ensure that proper respect is given to all human remains located in maritime waters.
- 10 Responsible non-intrusive access to observe or document in situ underwater cultural heritage shall be encouraged to create public awareness, appreciation, and protection of the heritage except where such access is incompatible with its protection and management.
- 11 No act or activity undertaken on the basis of this Convention shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

### **Article 3 – Relationship between this Convention and the United Nations Convention on the Law of the Sea**

Nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under international law, including the United Nations Convention on the Law of the Sea. This Convention shall be interpreted and applied in the context of and in a manner consistent with international law, including the United Nations Convention on the Law of the Sea.

### **Article 4 – Relationship to law of salvage and law of finds**

Any activity relating to underwater cultural heritage to which this Convention applies shall not be subject to the law of salvage or law of finds, unless it —

- (a) is authorized by the competent authorities, and
- (b) is in full conformity with this Convention, and
- (c) ensures that any recovery of the underwater cultural heritage achieves its maximum protection.

### **Article 5 – Activities incidentally affecting underwater cultural heritage**

Each State Party shall use the best practicable means at its disposal to prevent or mitigate any adverse effects that might arise from activities under its jurisdiction incidentally affecting underwater cultural heritage.

### **Article 6 – Bilateral, regional or other multilateral agreements**

- 1 States Parties are encouraged to enter into bilateral, regional or other multilateral agreements or develop existing agreements, for the preservation of underwater cultural heritage. All such agreements shall be in full conformity with the provisions of this Convention and shall not dilute its universal character. States may, in such agreements, adopt rules and regulations which would ensure better protection of underwater cultural heritage than those adopted in this Convention.

- 2 The Parties to such bilateral, regional or other multilateral agreements may invite States with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned to join such agreements.
- 3 This Convention shall not alter the rights and obligations of States Parties regarding the protection of sunken vessels, arising from other bilateral, regional or other multilateral agreements concluded before its adoption, and, in particular, those that are in conformity with the purposes of this Convention.

#### **Article 7 – Underwater cultural heritage in internal waters, archipelagic waters and territorial sea**

- 1 States Parties, in the exercise of their sovereignty, have the exclusive right to regulate and authorize activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.
- 2 Without prejudice to other international agreements and rules of international law regarding the protection of underwater cultural heritage, States Parties shall require that the Rules be applied to activities directed at underwater cultural heritage in their internal waters, archipelagic waters and territorial sea.
- 3 Within their archipelagic waters and territorial sea, in the exercise of their sovereignty and in recognition of general practice among States, States Parties, with a view to cooperating on the best methods of protecting State vessels and aircraft, should inform the flag State Party to this Convention and, if applicable, other States with a verifiable link, especially a cultural, historical or archaeological link, with respect to the discovery of such identifiable State vessels and aircraft.

#### **Article 8 – Underwater cultural heritage in the contiguous zone**

Without prejudice to and in addition to Articles 9 and 10, and in accordance with Article 303, paragraph 2, of the United Nations Convention on the Law of the Sea, States Parties may regulate and authorize activities directed at underwater cultural heritage within their contiguous zone. In so doing, they shall require that the Rules be applied.

#### **Article 9 – Reporting and notification in the exclusive economic zone and on the continental shelf**

- 1 All States Parties have a responsibility to protect underwater cultural heritage in the exclusive economic zone and on the continental shelf in conformity with this Convention.



Accordingly:

- (a) a State Party shall require that when its national, or a vessel flying its flag, discovers or intends to engage in activities directed at underwater cultural heritage located in its exclusive economic zone or on its continental shelf, the national or the master of the vessel shall report such discovery or activity to it;
  - (b) in the exclusive economic zone or on the continental shelf of another State Party —
    - (i) States Parties shall require the national or the master of the vessel to report such discovery or activity to them and to that other State Party;
    - (ii) alternatively, a State Party shall require the national or master of the vessel to report such discovery or activity to it and shall ensure the rapid and effective transmission of such reports to all other States Parties.
- 2 On depositing its instrument of ratification, acceptance, approval or accession, a State Party shall declare the manner in which reports will be transmitted under paragraph 1(b) of this Article.
  - 3 A State Party shall notify the Director-General of discoveries or activities reported to it under paragraph 1 of this Article.
  - 4 The Director-General shall promptly make available to all States Parties any information notified to him under paragraph 3 of this Article.
  - 5 Any State Party may declare to the State Party in whose exclusive economic zone or on whose continental shelf the underwater cultural heritage is located its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned.

#### **Article 10 – Protection of underwater cultural heritage in the exclusive economic zone and on the continental shelf**

- 1 No authorization shall be granted for an activity directed at underwater cultural heritage located in the exclusive economic zone or on the continental shelf except in conformity with the provisions of this Article.
- 2 A State Party in whose exclusive economic zone or on whose continental shelf underwater cultural heritage is located has the right to prohibit or authorize any activity directed at such heritage to prevent interference with its sovereign rights or jurisdiction as provided for by international law including the United Nations Convention on the Law of the Sea.

- 3 Where there is a discovery of underwater cultural heritage or it is intended that activity shall be directed at underwater cultural heritage in a State Party's exclusive economic zone or on its continental shelf, that State Party shall:
  - (a) consult all other States Parties which have declared an interest under Article 9, paragraph 5, on how best to protect the underwater cultural heritage;
  - (b) coordinate such consultations as "Coordinating State", unless it expressly declares that it does not wish to do so, in which case the States Parties which have declared an interest under Article 9, paragraph 5, shall appoint a Coordinating State.
- 4 Without prejudice to the duty of all States Parties to protect underwater cultural heritage by way of all practicable measures taken in accordance with international law to prevent immediate danger to the underwater cultural heritage, including looting, the Coordinating State may take all practicable measures, and/or issue any necessary authorizations in conformity with this Convention and, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activities or any other cause, including looting. In taking such measures assistance may be requested from other States Parties.
- 5 The Coordinating State —
  - (a) shall implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the consulting States, which include the Coordinating State, agree that another State Party shall implement those measures;
  - (b) shall issue all necessary authorizations for such agreed measures in conformity with the Rules, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations;
  - (c) may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefor, and shall promptly inform the Director-General of the results, who in turn will make such information promptly available to other States Parties.
- 6 In coordinating consultations, taking measures, conducting preliminary research and/or issuing authorizations pursuant to this Article, the Coordinating State shall act on behalf of the States Parties as a whole and not in its own interest. Any such action shall not in itself constitute a basis for the assertion of any preferential or jurisdictional rights not provided for in international law, including the United Nations Convention on the Law of the Sea.

- 7 Subject to the provisions of paragraphs 2 and 4 of this Article, no activity directed at State vessels and aircraft shall be conducted without the agreement of the flag State and the collaboration of the Coordinating State.

#### **Article 11 – Reporting and notification in the Area**

- 1 States Parties have a responsibility to protect underwater cultural heritage in the Area in conformity with this Convention and Article 149 of the United Nations Convention on the Law of the Sea. Accordingly when a national, or a vessel flying the flag of a State Party, discovers or intends to engage in activities directed at underwater cultural heritage located in the Area, that State Party shall require its national, or the master of the vessel, to report such discovery or activity to it.
- 2 States Parties shall notify the Director-General and the Secretary-General of the International Seabed Authority of such discoveries or activities reported to them.
- 3 The Director-General shall promptly make available to all States Parties any such information supplied by States Parties.
- 4 Any State Party may declare to the Director-General its interest in being consulted on how to ensure the effective protection of that underwater cultural heritage. Such declaration shall be based on a verifiable link to the underwater cultural heritage concerned, particular regard being paid to the preferential rights of States of cultural, historical or archaeological origin.

#### **Article 12 – Protection of underwater cultural heritage in the Area**

- 1 No authorization shall be granted for any activity directed at underwater cultural heritage located in the Area except in conformity with the provisions of this Article.
- 2 The Director-General shall invite all States Parties which have declared an interest under Article 11, paragraph 4, to consult on how best to protect the underwater cultural heritage, and to appoint a State Party to coordinate such consultations as the “Coordinating State”. The Director-General shall also invite the International Seabed Authority to participate in such consultations.
- 3 All States Parties may take all practicable measures in conformity with this Convention, if necessary prior to consultations, to prevent any immediate danger to the underwater cultural heritage, whether arising from human activity or any other cause including looting.
- 4 The Coordinating State shall —
  - (a) implement measures of protection which have been agreed by the consulting States, which include the Coordinating State, unless the

- consulting States, which include the Coordinating State, agree that another State Party shall implement those measures; and
- (b) issue all necessary authorizations for such agreed measures, in conformity with this Convention, unless the consulting States, which include the Coordinating State, agree that another State Party shall issue those authorizations.
- 5 The Coordinating State may conduct any necessary preliminary research on the underwater cultural heritage and shall issue all necessary authorizations therefor, and shall promptly inform the Director-General of the results, who in turn shall make such information available to other States Parties.
- 6 In coordinating consultations, taking measures, conducting preliminary research, and/or issuing authorizations pursuant to this Article, the Coordinating State shall act for the benefit of humanity as a whole, on behalf of all States Parties. Particular regard shall be paid to the preferential rights of States of cultural, historical or archaeological origin in respect of the underwater cultural heritage concerned.
- 7 No State Party shall undertake or authorize activities directed at State vessels and aircraft in the Area without the consent of the flag State.

### **Article 13 – Sovereign immunity**

Warships and other government ships or military aircraft with sovereign immunity, operated for non-commercial purposes, undertaking their normal mode of operations, and not engaged in activities directed at underwater cultural heritage, shall not be obliged to report discoveries of underwater cultural heritage under Articles 9, 10, 11 and 12 of this Convention. However States Parties shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of their warships or other government ships or military aircraft with sovereign immunity operated for non-commercial purposes, that they comply, as far as is reasonable and practicable, with Articles 9, 10, 11 and 12 of this Convention.

### **Article 14 – Control of entry into the territory, dealing and possession**

States Parties shall take measures to prevent the entry into their territory, the dealing in, or the possession of, underwater cultural heritage illicitly exported and/or recovered, where recovery was contrary to this Convention.

### **Article 15 – Non-use of areas under the jurisdiction of States Parties**

States Parties shall take measures to prohibit the use of their territory, including their maritime ports, as well as artificial islands, installations and structures under their exclusive jurisdiction or control, in support of any activity directed at underwater cultural heritage which is not in conformity with this Convention.

**Article 16 – Measures relating to nationals and vessels**

States Parties shall take all practicable measures to ensure that their nationals and vessels flying their flag do not engage in any activity directed at underwater cultural heritage in a manner not in conformity with this Convention.

**Article 17 – Sanctions**

- 1 Each State Party shall impose sanctions for violations of measures it has taken to implement this Convention.
- 2 Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance with this Convention and to discourage violations wherever they occur and shall deprive offenders of the benefit deriving from their illegal activities.
- 3 States Parties shall cooperate to ensure enforcement of sanctions imposed under this Article.

**Article 18 – Seizure and disposition of underwater cultural heritage**

- 1 Each State Party shall take measures providing for the seizure of underwater cultural heritage in its territory that has been recovered in a manner not in conformity with this Convention.
- 2 Each State Party shall record, protect and take all reasonable measures to stabilize underwater cultural heritage seized under this Convention.
- 3 Each State Party shall notify the Director-General and any other State with a verifiable link, especially a cultural, historical or archaeological link, to the underwater cultural heritage concerned of any seizure of underwater cultural heritage that it has made under this Convention.
- 4 A State Party which has seized underwater cultural heritage shall ensure that its disposition be for the public benefit, taking into account the need for conservation and research; the need for reassembly of a dispersed collection; the need for public access, exhibition and education; and the interests of any State with a verifiable link, especially a cultural, historical or archaeological link, in respect of the underwater cultural heritage concerned.

**Article 19 – Cooperation and information-sharing**

- 1 States Parties shall cooperate and assist each other in the protection and management of underwater cultural heritage under this Convention, including, where practicable, collaborating in the investigation, excavation, documentation, conservation, study and presentation of such heritage.

- 2 To the extent compatible with the purposes of this Convention, each State Party undertakes to share information with other States Parties concerning underwater cultural heritage, including discovery of heritage, location of heritage, heritage excavated or recovered contrary to this Convention or otherwise in violation of international law, pertinent scientific methodology and technology, and legal developments relating to such heritage.
- 3 Information shared between States Parties, or between UNESCO and States Parties, regarding the discovery or location of underwater cultural heritage shall, to the extent compatible with their national legislation, be kept confidential and reserved to competent authorities of States Parties as long as the disclosure of such information might endanger or otherwise put at risk the preservation of such underwater cultural heritage.
- 4 Each State Party shall take all practicable measures to disseminate information, including where feasible through appropriate international databases, about underwater cultural heritage excavated or recovered contrary to this Convention or otherwise in violation of international law.

#### **Article 20 – Public awareness**

Each State Party shall take all practicable measures to raise public awareness regarding the value and significance of underwater cultural heritage and the importance of protecting it under this Convention.

#### **Article 21 – Training in underwater archaeology**

States Parties shall cooperate in the provision of training in underwater archaeology, in techniques for the conservation of underwater cultural heritage and, on agreed terms, in the transfer of technology relating to underwater cultural heritage.

#### **Article 22 – Competent authorities**

- 1 In order to ensure the proper implementation of this Convention, States Parties shall establish competent authorities or reinforce the existing ones where appropriate, with the aim of providing for the establishment, maintenance and updating of an inventory of underwater cultural heritage, the effective protection, conservation, presentation and management of underwater cultural heritage, as well as research and education.
- 2 States Parties shall communicate to the Director-General the names and addresses of their competent authorities relating to underwater cultural heritage.

**Article 23 – Meetings of States Parties**

- 1 The Director-General shall convene a Meeting of States Parties within one year of the entry into force of this Convention and thereafter at least once every two years. At the request of a majority of States Parties, the Director-General shall convene an Extraordinary Meeting of States Parties.
- 2 The Meeting of States Parties shall decide on its functions and responsibilities.
- 3 The Meeting of States Parties shall adopt its own Rules of Procedure.
- 4 The Meeting of States Parties may establish a Scientific and Technical Advisory Body composed of experts nominated by the States Parties with due regard to the principle of equitable geographical distribution and the desirability of a gender balance.
- 5 The Scientific and Technical Advisory Body shall appropriately assist the Meeting of States Parties in questions of a scientific or technical nature regarding the implementation of the Rules.

**Article 24 – Secretariat for this Convention**

- 1 The Director-General shall be responsible for the functions of the Secretariat for this Convention.
- 2 The duties of the Secretariat shall include —
  - (a) organizing Meetings of States Parties as provided for in Article 23, paragraph 1; and
  - (b) assisting States Parties in implementing the decisions of the Meetings of States Parties.

**Article 25 – Peaceful settlement of disputes**

- 1 Any dispute between two or more States Parties concerning the interpretation or application of this Convention shall be subject to negotiations in good faith or other peaceful means of settlement of their own choice.
- 2 If those negotiations do not settle the dispute within a reasonable period of time, it may be submitted to UNESCO for mediation, by agreement between the States Parties concerned.
- 3 If mediation is not undertaken or if there is no settlement by mediation, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea apply mutatis mutandis to any dispute between States Parties to this Convention concerning the interpretation or application of this Convention, whether or not they are also Parties to the United Nations Convention on the Law of the Sea.

- 4 Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea pursuant to Article 287 of the latter shall apply to the settlement of disputes under this Article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.
- 5 A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

#### **Article 26 – Ratification, acceptance, approval or accession**

- 1 This Convention shall be subject to ratification, acceptance or approval by Member States of UNESCO.
- 2 This Convention shall be subject to accession —
  - (a) by States that are not members of UNESCO but are members of the United Nations or of a specialized agency within the United Nations system or of the International Atomic Energy Agency, as well as by States Parties to the Statute of the International Court of Justice and any other State invited to accede to this Convention by the General Conference of UNESCO;
  - (b) by territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters.
- 3 The instruments of ratification, acceptance, approval or accession shall be deposited with the Director-General.



**Article 27 – Entry into force**

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument referred to in Article 26, but solely with respect to the twenty States or territories that have so deposited their instruments. It shall enter into force for each other State or territory three months after the date on which that State or territory has deposited its instrument.

**Article 28 – Declaration as to inland waters**

When ratifying, accepting, approving or acceding to this Convention or at any time thereafter, any State or territory may declare that the Rules shall apply to inland waters not of a maritime character.

**Article 29 – Limitations to geographical scope**

At the time of ratifying, accepting, approving or acceding to this Convention, a State or territory may make a declaration to the depositary that this Convention shall not be applicable to specific parts of its territory, internal waters, archipelagic waters or territorial sea, and shall identify therein the reasons for such declaration. Such State shall, to the extent practicable and as quickly as possible, promote conditions under which this Convention will apply to the areas specified in its declaration, and to that end shall also withdraw its declaration in whole or in part as soon as that has been achieved.

**Article 30 – Reservations**

With the exception of Article 29, no reservations may be made to this Convention.

**Article 31 – Amendments**

- 1 A State Party may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Director-General shall present such proposal to the next Meeting of States Parties for discussion and possible adoption.
- 2 Amendments shall be adopted by a two-thirds majority of States Parties present and voting.
- 3 Once adopted, amendments to this Convention shall be subject to ratification, acceptance, approval or accession by the States Parties.
- 4 Amendments shall enter into force, but solely with respect to the States Parties that have ratified, accepted, approved or acceded to them, three

months after the deposit of the instruments referred to in paragraph 3 of this Article by two thirds of the States Parties. Thereafter, for each State or territory that ratifies, accepts, approves or accedes to it, the amendment shall enter into force three months after the date of deposit by that Party of its instrument of ratification, acceptance, approval or accession.

- 5 A State or territory which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention by that State or territory, be considered —
  - (a) as a Party to this Convention as so amended; and
  - (b) as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

### **Article 32 – Denunciation**

- 1 A State Party may, by written notification addressed to the Director-General, denounce this Convention.
- 2 The denunciation shall take effect twelve months after the date of receipt of the notification, unless the notification specifies a later date.
- 3 The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

### **Article 33 – The Rules**

The Rules annexed to this Convention form an integral part of it and, unless expressly provided otherwise, a reference to this Convention includes a reference to the Rules.

### **Article 34 – Registration with the United Nations**

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General.

### **Article 35 – Authoritative texts**

This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, the six texts being equally authoritative.

**SCHEDULE 6****RULES CONCERNING ACTIVITIES DIRECTED AT UNDERWATER CULTURAL HERITAGE****I. General principles**

- Rule 1. The protection of underwater cultural heritage through in situ preservation shall be considered as the first option. Accordingly, activities directed at underwater cultural heritage shall be authorized in a manner consistent with the protection of that heritage, and subject to that requirement may be authorized for the purpose of making a significant contribution to protection or knowledge or enhancement of underwater cultural heritage.
- Rule 2. The commercial exploitation of underwater cultural heritage for trade or speculation or its irretrievable dispersal is fundamentally incompatible with the protection and proper management of underwater cultural heritage. Underwater cultural heritage shall not be traded, sold, bought or bartered as commercial goods.
- This Rule cannot be interpreted as preventing —
- (a) the provision of professional archaeological services or necessary services incidental thereto whose nature and purpose are in full conformity with this Convention and are subject to the authorization of the competent authorities;
  - (b) the deposition of underwater cultural heritage, recovered in the course of a research project in conformity with this Convention, provided such deposition does not prejudice the scientific or cultural interest or integrity of the recovered material or result in its irretrievable dispersal; is in accordance with the provisions of Rules 33 and 34; and is subject to the authorization of the competent authorities.
- Rule 3. Activities directed at underwater cultural heritage shall not adversely affect the underwater cultural heritage more than is necessary for the objectives of the project.
- Rule 4. Activities directed at underwater cultural heritage must use non-destructive techniques and survey methods in preference to recovery of objects. If excavation or recovery is necessary for the purpose of scientific studies or for the ultimate protection of the underwater cultural heritage, the methods and techniques used must be as non-destructive as possible and contribute to the preservation of the remains.

- Rule 5. Activities directed at underwater cultural heritage shall avoid the unnecessary disturbance of human remains or venerated sites.
- Rule 6. Activities directed at underwater cultural heritage shall be strictly regulated to ensure proper recording of cultural, historical and archaeological information.
- Rule 7. Public access to in situ underwater cultural heritage shall be promoted, except where such access is incompatible with protection and management.
- Rule 8. International cooperation in the conduct of activities directed at underwater cultural heritage shall be encouraged in order to further the effective exchange or use of archaeologists and other relevant professionals.

## **II. Project design**

- Rule 9. Prior to any activity directed at underwater cultural heritage, a project design for the activity shall be developed and submitted to the competent authorities for authorization and appropriate peer review.
- Rule 10. The project design shall include —
- (a) an evaluation of previous or preliminary studies;
  - (b) the project statement and objectives;
  - (c) the methodology to be used and the techniques to be employed;
  - (d) the anticipated funding;
  - (e) an expected timetable for completion of the project;
  - (f) the composition of the team and the qualifications, responsibilities and experience of each team member;
  - (g) plans for post-fieldwork analysis and other activities;
  - (h) a conservation programme for artefacts and the site in close cooperation with the competent authorities;
  - (i) a site management and maintenance policy for the whole duration of the project;
  - (j) a documentation programme;
  - (k) a safety policy;
  - (l) an environmental policy;

- (m) arrangements for collaboration with museums and other institutions, in particular scientific institutions;
  - (n) report preparation;
  - (o) deposition of archives, including underwater cultural heritage removed; and
  - (p) a programme for publication.
- Rule 11. Activities directed at underwater cultural heritage shall be carried out in accordance with the project design approved by the competent authorities.
- Rule 12. Where unexpected discoveries are made or circumstances change, the project design shall be reviewed and amended with the approval of the competent authorities.
- Rule 13. In cases of urgency or chance discoveries, activities directed at the underwater cultural heritage, including conservation measures or activities for a period of short duration, in particular site stabilization, may be authorized in the absence of a project design in order to protect the underwater cultural heritage.

### III. Preliminary work

- Rule 14. The preliminary work referred to in Rule 10 (a) shall include an assessment that evaluates the significance and vulnerability of the underwater cultural heritage and the surrounding natural environment to damage by the proposed project, and the potential to obtain data that would meet the project objectives.
- Rule 15. The assessment shall also include background studies of available historical and archaeological evidence, the archaeological and environmental characteristics of the site, and the consequences of any potential intrusion for the long-term stability of the underwater cultural heritage affected by the activities.

### IV. Project objective, methodology and techniques

- Rule 16. The methodology shall comply with the project objectives, and the techniques employed shall be as non-intrusive as possible.

### V. Funding

- Rule 17. Except in cases of emergency to protect underwater cultural heritage, an adequate funding base shall be assured in advance of

any activity, sufficient to complete all stages of the project design, including conservation, documentation and curation of recovered artefacts, and report preparation and dissemination.

- Rule 18. The project design shall demonstrate an ability, such as by securing a bond, to fund the project through to completion.
- Rule 19. The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption of anticipated funding.

#### **VI. Project duration – timetable**

- Rule 20. An adequate timetable shall be developed to assure in advance of any activity directed at underwater cultural heritage the completion of all stages of the project design, including conservation, documentation and curation of recovered underwater cultural heritage, as well as report preparation and dissemination.
- Rule 21. The project design shall include a contingency plan that will ensure conservation of underwater cultural heritage and supporting documentation in the event of any interruption or termination of the project.

#### **VII. Competence and qualifications**

- Rule 22. Activities directed at underwater cultural heritage shall only be undertaken under the direction and control of, and in the regular presence of, a qualified underwater archaeologist with scientific competence appropriate to the project.
- Rule 23. All persons on the project team shall be qualified and have demonstrated competence appropriate to their roles in the project.

#### **VIII. Conservation and site management**

- Rule 24. The conservation programme shall provide for the treatment of the archaeological remains during the activities directed at underwater cultural heritage, during transit and in the long term. Conservation shall be carried out in accordance with current professional standards.
- Rule 25. The site management programme shall provide for the protection and management in situ of underwater cultural heritage, in the course of and upon termination of fieldwork. The programme shall

include public information, reasonable provision for site stabilization, monitoring, and protection against interference.

### **IX. Documentation**

Rule 26. The documentation programme shall set out thorough documentation including a progress report of activities directed at underwater cultural heritage, in accordance with current professional standards of archaeological documentation.

Rule 27. Documentation shall include, at a minimum, a comprehensive record of the site, including the provenance of underwater cultural heritage moved or removed in the course of the activities directed at underwater cultural heritage, field notes, plans, drawings, sections, and photographs or recording in other media.

### **X. Safety**

Rule 28. A safety policy shall be prepared that is adequate to ensure the safety and health of the project team and third parties and that is in conformity with any applicable statutory and professional requirements.

### **XI. Environment**

Rule 29. An environmental policy shall be prepared that is adequate to ensure that the seabed and marine life are not unduly disturbed.

### **XII. Reporting**

Rule 30. Interim and final reports shall be made available according to the timetable set out in the project design, and deposited in relevant public records.

Rule 31. Reports shall include —

- (a) an account of the objectives;
- (b) an account of the methods and techniques employed;
- (c) an account of the results achieved;
- (d) basic graphic and photographic documentation on all phases of the activity;

- (e) recommendations concerning conservation and curation of the site and of any underwater cultural heritage removed; and
- (f) recommendations for future activities.

### **XIII. Curation of project archives**

- Rule 32. Arrangements for curation of the project archives shall be agreed to before any activity commences, and shall be set out in the project design.
- Rule 33. The project archives, including any underwater cultural heritage removed and a copy of all supporting documentation shall, as far as possible, be kept together and intact as a collection in a manner that is available for professional and public access as well as for the curation of the archives. This should be done as rapidly as possible and in any case not later than ten years from the completion of the project, in so far as may be compatible with conservation of the underwater cultural heritage.
- Rule 34. The project archives shall be managed according to international professional standards, and subject to the authorization of the competent authorities.

### **XIV. Dissemination**

- Rule 35. Projects shall provide for public education and popular presentation of the project results where appropriate.
- Rule 36. A final synthesis of a project shall be —
- (a) made public as soon as possible, having regard to the complexity of the project and the confidential or sensitive nature of the information; and
  - (b) deposited in relevant public records.



**ENDNOTES**

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<sup>1</sup> Act 7 of 2009, commencement 26<sup>th</sup> July 2013, (vide Gazette Supplement 8/2013)

<sup>2</sup> On 10 August 2009, following the Ashika Tragedy, His Majesty in Council made the following Order under section 10 of the Territorial Sea and Exclusive Economic Zone Act. This Order was effective for 100 days only but are referred to here for information.

**ORDER IN COUNCIL****(Section 10)****TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE ACT**

IN EXERCISE of the powers conferred by section 10 of the Territorial Sea and Exclusive Economic Zone Act, His Majesty in Council, makes the following Regulations:

**1. Short Title and Commencement**

- (1) These Regulations may be cited as the MV Princess Ashika (Exclusion Zone) Regulations 2009.
- (2) These Regulations shall come into force on 10 August 2009, and shall be effective for 100 days unless otherwise amended by Order in Council.

**2. Exclusion Zone**

- (1) An exclusion zone is established in the waters of the Kingdom consisting of an area with a radius of 8 nautical miles from a point described as 20°.20 South and 174°.56 West.
- (2) No person, vessel or other thing may transit through the exclusion zone established in sub-regulation (1) without the express authorisation of the Minister of Police.