DELIMITATION OF MARITIME BOUNDARIES WITH SPECIAL REFERENCE TO THE EEZ AND THE IMO CONVENTIONS REGIME: A LIBYAN CASE STUDY

BY

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The views expressed herein are those of the author and do not necessarily reflect the views of the United Nations, the Nippon Foundation of Japan or the Government of the Libyan Arab Jamahiriya.

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ABBREVIATIONS

AALCC	Asian-African Legal Consultative Committee
ACOPS	Advisory Committee on Pollution of the Sea
AJIL	American Journal of International Law
A/CONF	Official records of UNCLOS III
EEZ	Exclusive Economic Zone
EFZ	Exclusive Fishery Zone
ETC/MCE	European Topic Centre on the Marine and Coastal Environment
FAO	(United Nations) Food & Agriculture Organisation
ICJ	International Court of Justice
LEG	(IMO) Legal Committee
ICCA	International Commission for the Conservation of Atlantic Tuna
IFREMER	French Research Institute for Exploitation of the Sea
IJMCL	International Journal of Marine and Coastal Law
ILM	International Legal Materials
IMCO	Inter-Governmental Maritime Consultative Organization (now IMO)
IMO	(United Nations) International Maritime Organisation
IML	University of Southampton's Institute of Maritime Law
ISA	International Seabed Authority
ITLOS	International Tribunal for the Law of the Sea
IUU	Illegal, Unreported and Unregulated Fishing
LFAS	Low Frequency Active Sonar
LIBYA	Libyan Arab Jamahiriya
LIMITS	Limits United States, Department of States, Bureau of Intelligence and Research in the Law of the Sea
LLS	Land-Locked States
LOSB	(United Nations) Law of the Sea Bulletin
MAP	Mediterranean Action Plan
N.M.	Nautical Mile
PFZ	Protection Fishery Zone
SMB	Single Maritime Boundary
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea 1982
UNCLOS I	First United Nations Conference on the Law of the Sea, 1958
UNCLOS III	Third United Nations Conference on the Law of the Sea, 1973-82
UNEP	United Nations Environment Programme
UNTS	United Nations Treaty Series
UKHO	United Kingdom Hydrographic Office
UKTS	United Kingdom Treaty Series
VJIL	Virginia Journal of International Law

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TABLE OF CONVENTIONS

1- Convention on the Continental Shelf, Geneva, 29 April 1958, in force 10 June 1964, 499 UNTS 311.

2- Convention on the Law of Treaties, Vienna, 23 May 1969, in force 27 January 1980, 1980 UKTS 58.

3- International Convention on Civil Liability for Oil Pollution Damage, 1969, 29 November 1969, in force 19 June 1975.

- Protocol, London, 27 November 1992. In force 30 May 1996.

4- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, Brussels, 18 December 1971, in force 16 October 1978, 1978 UKTS 95 (replaced by Protocol 1992)

- Protocol, London, 27 November 1992. In force 30 May 1996. 1996 UKTS 87.

- Protocol of 2003 amending the International Convention on the Establishment of an International Fund Compensation for oil Pollution Damage, 1992, London May 16, 2003, in force 3 March 2005.

5-Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, London, Mexico City, Moscow, Washington, 29 December 1972. In force 30 august 1975. 1976 UKTS 43.

- Protocol to the convention, London, 8 November 1996. Not in force (Will replace the 1972 Convention). 34 LOSB 71 (1997).

6-International Convention for the Prevention of Pollution from Ships, London, 2 November 1973, as amended by the Protocol, London, 1 June 1978. In force 2 October 1983. 1340 UNTS 61.

7-Convention for the protection of the Mediterranean sea against pollution, Barcelona, 16 February 1976. In force 12 February 1978. 1102 UNTS.

- Amendments, Barcelona, 10 June 1995, in force 9 July 2004, 31 LOSB 65 (1996).

- Protocol for the prevention of the Mediterranean Sea by dumping from ships and aircraft, Barcelona, 16 February 1976, in force 12 February 1978. 1102 UNTS 92.

- Amendments, Barcelona, 10 June 1995. Not in force. 31 LOSB 65 (1996).31 LOSB 72.

- Protocol Concerning Mediterranean Special Protected Areas, Geneva, 3 April 1982. In force 23 March 1986. OJEC 1982 C278/5.

- Protocol for the protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of continental shelf and seabed and subsoil, Madrid, 14 October 1994. Not in force.

- Protocol concerning special protected areas and biological diversity in the Mediterranean, Barcelona, 10 June 1995. Not in force. 11 IJMCL 101 (1996).

8-United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982, in force 16 November 1994, ILM (1982).

9-Convention for the suppression of unlawful acts against the safety of maritime navigation, 10 march 1988. In force 1 march 1992

- Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf, 10 march 1988. In force 1 march 1992.

- Protocol of 2005 to the convention for the suppression of unlawful acts against the safety of maritime navigation, 14 October 2005, not in force.

- Protocol of 2005 to the protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf, 14 October 2005, not in force.

10- Agreement on the implementation of part XI of the 1982 law of the sea convention, 28 July 1994. In force 28 July 1996. LOSB special issue IV (1994).

11- Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 4 august 1995. In force 11 December 2001. 34 ILM 1542 (1995).

12- International convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substance by sea, London 3 May 1996, Not in force.

13- International Convention on Civil Liability for Bunker Oil Pollution Damage, London 23 March 2001, Not in force.

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In memory of Eng. Bashir Ben Hamed, Director of the Libyan Maritime Transport and Ports Administration, who passed away in the course of the preparation of this paper

INTRODUCTION

The world's oceans and seas provide the resource base and ecosystems upon which a significant percentage of humankind relies for sustenance and livelihood options. Our oceans and coasts also provide the foundation for vital economic sectors such as trade, tourism and energy. They contain tremendous resources, both living and mineral, which will become of increasing economic importance to all States, developed or developing. For example, an estimated 20% of humanity's protein supply is derived from marine resources and approximately 90% of the world's total fish catch comes from the seas[1]. Shipping accounts for more than 90% of world trade and by the year 2013, the volume of goods transported by sea will have doubled[2]. Around 20% of potentially exploitable hydrocarbons are beneath marine waters[3]. Moreover, while most reserves are explored, an advance in technology is making it possible to bring even seabed resources into production.

In short, few resources have as broad an impact on our economy and communities as our oceans. As the backbone of international commerce, oceans and seas are vital to homeland security, transportation, trade, environmental and scientific research, historical and cultural heritage.

Based on the foregoing, countries in different parts of the world have actively passed laws related to the seas over the last two centuries. This, in turn, has led to the adoption of international conventions in an attempt to guarantee the freedom of the high seas to all states; due to these conventions and customary international law, no State today can claim control over international waters. Conversely, all nations are free to carry out lawful activities in these waters, including navigation, fishing, marine exploration and research for scientific reasons. The last international convention to be

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[1] Advisory Committee on Protection of the Sea (ACOPS), *Tripoli Declaration on Ocean Security*, page 4, adopted at the First Conference of the Ocean Security Initiative (OSI), Tripoli, Great Jamahiriya, 23-25 July 2005, http://www.acops.org/Tripoli%20Declaration%20240705%20final%20final.doc.
[2] Ibid.
[3] Ibid.

adopted on this subject, after 9 years of negotiations, was the United Nations Convention on the Law of the Sea (UNCLOS). It is a constitution for the oceans and has clearly become a success story for the United Nations and the international community. On the first day on which it was opened for signature, 119 countries signed the Convention, which was a record at the time.

As of April 2006, the Convention had 149 parties and another 23 States had indicated their intention to give their consent to be bound by the Convention[4]. The Libyan Arab Jamahiriya is one of them, having signed the UNCLOS on 3 December 1984 through its People's Committee of Foreign Affairs and International Co-operation but without having ratified it yet.

There are two subsequent agreements relating to the Convention, that is the Agreement relating to the implementation of Part Xl of the Convention[5] and the United Nations Agreement for the Implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks[6].

One of the most important novel legal regimes set out in UNCLOS was the exclusive economic zone (EEZ), popularly known as the 200-nautical mile zone[7]. This is a part of the sea adjacent to and beyond the territorial sea. The EEZ extends to a maximum distance of 200 nautical miles from the baseline from which the territorial sea is measured[8]. Part V together with other relevant provisions of the of the UNCLOS set out the rules governing the rights, duties and jurisdiction of the coastal State as well as other States in the EEZ.

During the Third United Nations Conference on the Law of the Sea (UNCLOS III), which began in December 1973 and ended with the adoption of the 1982 Convention, there was a struggle between developed northern States and African and Latin

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[4] See *Status of Multilateral Treaties Deposited with the Secretary-General*, http://untreaty.un.org.
[5] As of April 2006, there were 123 State Parties to this Agreement.
[6] As of April 2006, there were 57 State parties to this Agreement which is officially in force as from 11 December 2001. But see Andrew Serdy, "How Long Has the United Nations Fish Stocks Agreement Been in Force?" (2003) 34 *Ocean Development and International Law* 29-39 for a different view on the date of entry into force.
[7] The nautical mile is a unit of length used in sea navigation and equal to 1,852 metres. Thus, 200 N.M. is equal to 370.4 kilometres. All distances in the UNCLOS are expressed in nautical miles.

American States. The struggle was about defining the intrinsic nature of the EEZ: was it to be in essence a territorial sea or part of the high seas subject to certain rights of the coastal State and other States? The final text of UNCLOS defines the EEZ as a zone subject to the specific legal regime established in part V as a separate functional zone *sui generis* having three fundamental elements: rights and duties of the coastal State; rights and duties of other States and activities compatible with the previous two categories[9].

The EEZ has undoubtedly become a part of the general international law. A clear majority of coastal States claimed an EEZ before entry into force of UNCLOS[10]. The volume of claims coupled with the absence of protests has led most to conclude that the EEZ became part of customary international law. The International Court of Justice (ICJ) in the *Libya-Malta case* (1985) declared that "the institution of the exclusive economic zone, with its rule on entitlement by reason of distance, is shown by the practice of States to have become a part of customary law." The ICJ came to such a conclusion[11] after holding that "the concept of the exclusive economic zone… may be regarded as part of modern international law"[12]. At the end of 2005, 123 States had claimed EEZs[13]. Those claims total approximately 48.1 million square miles (34.4% of the surface area of the world's ocean)[14].

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[8] Article 58 UNCLOS.
[9] See Nandan, Rosenne & Grandy (Eds), *United Nations Convention on The Law of the Sea 1982: A Commentary*, volume II, Dordrecht, Nijhoff (1993), pages 491-501. See also Churchill and Lowe, *The Law of the Sea* (1999), page 165.
[10] UNCLOS entered into force on 16 November 1994, in accordance with article 308(1). As of 15 January 1993, 87 States had claimed an EEZ: United Nations, *National Legislation on the Exclusive Economic Zone*, New York (1993).
[11] *Libyan Arab Jamahiriya-Malta case*, ICJ Reports (1985), 13, para. 33.
[12] *Libyan Arab Jamahiriya-Tunisia case*, ICJ Reports (1982), 18, para. 74.
[13] UKHO, 2005
[14] Prescott and Schofield, *The Maritime Political Boundaries of the World* (The Hague: Nijhoff, 2004) page 36.

Figure 1. Table of Leading EEZ Beneficiaries

State	Area of 200-mile zone (sq.n.m)
USA	2,831,400
France	2,083,400
Indonesia	1,577,33
New Zealand	1,409,500
Australia	1,310,900
Russia	1,309,500
Japan	1,126,000
Brazil	924,000
Canada	857,000
Mexico	831,500
Kiribati	770,000
Papua New Guinea	690,000
Chile	667,300
Norway	590,500
India	587,600
Total all States	37,745,000

Source: Churchill and Lowe, The Law of the Sea (Manchester University Press, 1999), page 178.

Figure 2. Table of States Claiming EEZ's

Angola	Georgia†	Oman
Antigua and Barbuda	Germany*	Pakistan
Argentina	Ghana	Panama
Australia	Grenada	Philippines
Bahamas	Guatemala	Poland†
Bangladesh	Guinea	Portugal
Barbados	Guinea Bissau	Romania
Belgium*	Guyana	Russia
Belize	Haiti	St. Kitts-Nevis
Brazil	Honduras	St. Lucia
Brunei	Iceland	St. Vincent and the Grenadines
Bulgaria	India	Samoa
Burma	Indonesia	Sao Tome and Principe
Cambodia	Iran†	Senegal
Canada	Jamaica	Seychelles
Cape Verde Islands	Japan	Sierra Leone
Chile	Kenya	Solomon Islands
China, PRC	Kiribati	South Africa
ROC (Taiwan)	Korea (North)	Spain‡
Colombia	Korea (South)	Sri Lanka
Comoros	Latvia*	Suriname
Congo Democratic Republic (formerly Kinshasa or Zaire) †	Lithuania†	Sweden*
Cook Islands	Madagascar	Syria
Costa Rica	Malaysia	Tanzania
Côte d'Ivoire	Maldives	Thailand
Cuba	Marshall Islands	Timor-Leste
Cyprus	Mauritania	Togo
Denmark	Mauritius	Tonga
Djibouti	Mexico	Trinidad and Tobago
Dominica	Morocco	Tunisia
Dominican Republic	Mozambique	Turkey‡
Egypt	Namibia	Tuvalu
El Salvador	Nauru	UAE
Equatorial Guinea	Netherlands*	UK (Bermuda, Pitcairn, South Georgia and South Sandwich Islands)
Estonia*	New Zealand	Ukraine
Federated States of Micronesia	Nicaragua	Uruguay
Fiji	Nigeria	USA
France‡	Niue	
Gabon	Norway	

* To defined co-ordinates.
† To median line or boundaries.
‡ Does not claim an EEZ in the Mediterranean.

Source: UKHO, 2005 et al.

CHAPTER ONE: HISTORICAL BACKGROUND

The opposition between exclusive and shared uses of the seas has served as an impulse for the development of the law of the sea over the last two centuries. Competing with each other were freedom of the seas and sovereignty rights of coastal States.

At the beginning of the last century, the rights of the coastal State in its adjacent waters were subsumed under concepts of internal waters, in which the coastal State has full sovereignty, the territorial sea, in which the coastal State has sovereignty subject to the right of innocent passage of foreign ships, and the contiguous zone, where the coastal State has certain limited rights as such a zone is considered part of the high seas[15].

On 28 September 1945, the concept of the continental shelf was reflected in U.S. President Truman's proclamation, which introduced this legal regime to international law in the following terms:

> *"having concern for the urgency of conserving and prudently utilizing its mineral resource, the government of the United State regards the natural resources of the sub-soil and sea-bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control…"*[16]

This was accompanied by another proclamation that contemplated the establishment of conservation zones in areas of the high seas contiguous to the coasts of the United

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[15] It should be said, however, that the latter concept of the contiguous zone started developing, and being accepted, as early as the Hague conference of 1930. Under UNCLOS, the contiguous zone falls within the EEZ and is not considered as part of the high seas. Article 33 grants States the right to adopt legislation necessary to control all activities within the contiguous zone.

[16] Truman Proclamation No. 2667 of September 1945. See also A.L. Hollick, "U.S Oceans Policy: The Truman Proclamation" (1976) 17 *AJIL* 23-35.

States for fishing activities[17]. In both proclamations, the freedom of navigation was maintained.

Before these proclamations, one may find hints of these principles, but no comprehensive declaration. For instance, in 1916, Captain Storni of the Argentine Navy recommended to the Argentine Marine Authority the extension of the coastal offshore waters to create a "*mar argentino*" and the affirmation of an exclusive right over fisheries resources. Another example of the above occurred in 1918 when de Buen, the Spanish director-general of fisheries, proposed the extension of the territorial sea to include the whole of the shelf[18]. However, the idea was misty until the Truman proclamation introduced the continental shelf as a functional zone confining resource sovereignty to the seabed, while the legal status of superjacent waters was not affected.

Immediately after the Truman proclamation of 1945, a number of States took measures for the protection of offshore resources. A large number of States in Latin America made unilateral proclamations to adopt exploitation zones beyond their territorial waters. The number of declarations of coastal State claims to the adjacent submarine areas reported between the Truman proclamations in 1945 and the start of the UN Conference on the Law of the Sea in 1958 came to more than 55. Some of those claims were similar to the Truman proclamations, while others were different insofar as they covered not just the mineral resources of the seabed, but also the biological resources of the superjacent water[19]. Mexico followed suit on 29 October 1945 by issuing similar proclamations. Argentina issued Decree No. 1386, on 24 June 1944, concerning national sovereignty over the "Epicontinental Sea" and continental shelf[20]. Chile was the first State to establish a 200-N.M. maritime zone. Through the President's Declaration of 23 June 1947[21], Chile proclaimed "national sovereignty" over the continental shelf in the seas adjacent to its coasts to the extent necessary to

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[17] Proclamation No. 2668, Policy of United States with respect to the Natural Resources of the Subsoil and Sea Bed of Continental Shelf, 3 C.F.R. 67 (1943-48 Compilation).
[18] See Attard, *The Exclusive Economic Zone in International Law* (New York and London: Oxford University Press, 1987), pages 3-31.
[19] See Krueger and Nordquist, "The Evolution of the 200-Mile Exclusive Economic Zone: State Practice in the Pacific Basin" (1979) 19 *AJIL* at 321.
[20] See Ann L. Hollick, "The Origins of the 200-Mile Offshore Zone" (1977) 71 *AJIL* at 494-500.
[21] See Knight and Hungdanchiu, *The International Law of the Sea*, pages 435-496.

protect the natural resources, up to a limit of 200 N.M. from its coast and islands. Moreover, the proclamation stated that this would not affect the rights of free navigation on the high seas.

Soon after, important developments occurred which favoured the position of Latin American States: the emergence in Africa and Asia of new independent States which started to claim protection of their natural resources[22]. During the 1972 Lagos session of the Asian-African Legal Consultative Committee (AALCC) meeting[23], Kenya presented a paper that described the purpose of an Exclusive Economic Zone as safeguarding the coastal State's economic interest without interfering unduly with other States' legitimate interests. While the Kenyan working paper represented only the start of EEZ concept as it dealt solely with fishery and pollution control, it had a catalytic effect, encouraging other States to consider the matter further. So much so that in June 1972 at the African States regional seminar on the law of the sea held at Yaoundé, Cameroon, the issue was raised again: here, the seventeen participating African States demonstrated a unified position at the regional level adopting an aggressive stance on coastal State jurisdiction[24] .

UNCLOS III built upon the Yaoundé outcome, the 1972 Santo Domingo Declaration[25] as well as the meeting of the members of the Organization of African Unity Council of Ministers in 1973[26] which all supported the idea that the EEZ should be part of the new convention package[27]. This ultimately led to the establishment of an exclusive economic zone, extending to 200 nautical miles under the UNCLOS as laid out in part V. Through the establishment of EEZ, the UNCLOS has solved the problem found in States wanting to establish their territorial seas beyond the 12-nautical mile boundary. The EEZ is a zone stretching up to 200 N.M. in which the

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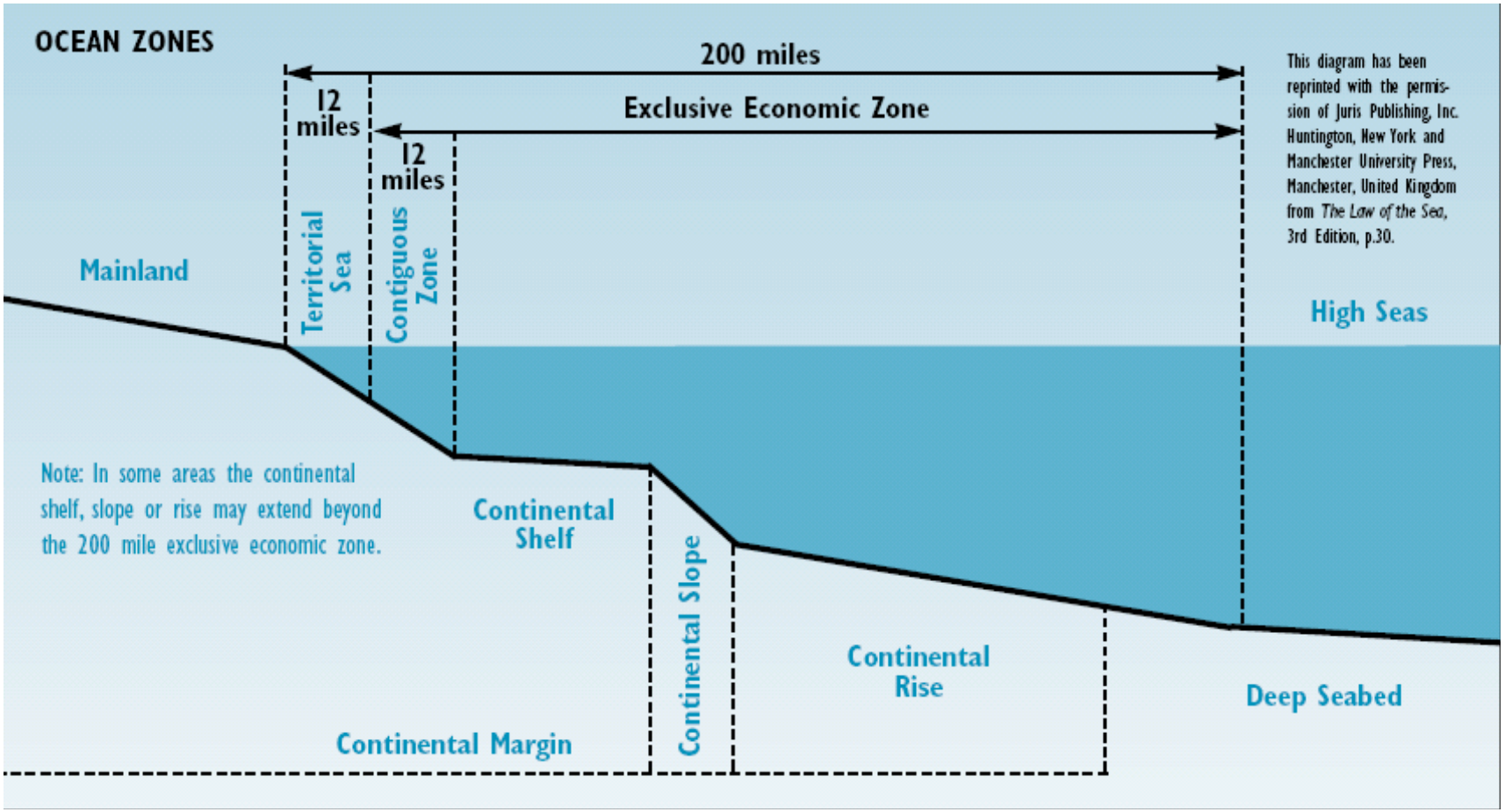
[22] See *Bernaerts' Guide to the Law of the Sea* (Coulsdon: Fairplay, 1988).
[23] See General Report of African State Regional Seminar on the Law of the Sea, Yaoundé, June, 1972, UN.leg.ser.b/16, pages. 601 and 250.
[24] Ibid.
[25] Declaration of Santo Domingo, Specialized Conference of the Caribbean Countries on Problems of the Sea, June 7, 1972, U.N.DC.A/AC.138/80,27 UN.GAOR SUPP. (NO21) at 70, U.N. DOC.A/8721 (1972).
[26] Organization of African Unity: Declaration on the issues of the law of the sea, U.N.DOC.A/AC. 138/89, 28 U.N GAOR SUPP. (NO21, VOL.20 at 4, U.N. DOC. A/9021, VOL.2 (1973).
[27] See Professor Horace. B.Robertson on research done at the institute of advanced legal studies, university of London, Navigation in the Exclusive Economic Zone, VJIL (Virginia journal of international law {vol. 24:4} (1983-1984) page 865-917.

coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of waters superjacent to the sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone. It also has jurisdiction over the establishment and use of artificial islands and installations and structures, marine scientific research and the protection of the marine environment. This is always subject to the relevant provisions as established in UNCLOS.

Figure 3. Maritime Zones



Source: IUCN - The World Conservation Union, 2001.

CHAPTER TWO: RIGHTS AND DUTIES OF STATES IN THE EEZ

I. Rights and Duties of the Coastal State with Special Reference to the IMO Instruments

In the exclusive economic zone, the coastal State has sovereign rights over the living and non-living natural resources, and jurisdiction regarding other activities related to the exploitation and exploration of the zone. Furthermore, the coastal State has jurisdiction with regard to artificial islands, installations and structures, marine scientific research, and the protection and preservation of the marine environment. The coastal State has the power to take reasonable measures of enforcement of its rights and jurisdiction in the exclusive economic zone in accordance with both the standards of general international law and the applicable provisions of UNCLOS[28]. In spite of the fact that the coastal State has very extensive rights, the exclusivity is limited to the economic interests specified in UNCLOS. Therefore, the EEZ is not an exclusive maritime zone, but an exclusive economic zone.

UNCLOS grants the coastal State the right to regulate, authorise and conduct marine scientific research in its EEZ, and the coastal State must grant its consent before the marine scientific research can start in its EEZ[29]. A coastal State has the right to withhold its consent if the research carried out in its EEZ:

- Is of direct significance for the exploration of natural resources, living or non-living;
- Uses explosives or introduces harmful substances into the marine environment;
- Involves the construction, operation or use of an artificial island[30].

[28] Article 73 UNCLOS.
[29] Article 246 para 2 UNCLOS.
[30] Article 246 para 5 UNCLOS.

According to the U.S. Department of State, an average of 300 authorizations is obtained annually by U.S. flag vessels for approximately 130 cruises in foreign EEZs[31].

Coastal States are obliged in normal circumstances to consent to marine scientific research projects which are in accordance with UNCLOS and thus exclusively for peaceful purposes and in order to increase scientific knowledge. While UNCLOS does not specify normal circumstances as referred to in article 247(3), it states that normal circumstances may exist in spite of the absence of diplomatic relations between the coastal State and the researching State. This applies in Libya's case only through the customary international law[32], as it has still not ratified UNCLOS. Libya generally grants its consent to marine scientific research projects based on the existence of diplomatic relations.

In view of the above, the researcher is under obligation to provide the coastal State with the necessary information as laid out in article 248 and apply for permission to conduct marine scientific research in its EEZ at least six months in advance[33]. In addition, it must ensure the right of the coastal State to participate in the project[34] and provide it, on request, with the results of the project[35].

Coastal States have obligations when exercising their rights in the EEZ to act in a manner compatible with UNCLOS provisions[36]. Furthermore, article 300 states that:

> *States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right.*

This is a reflection of a fundamental principle of international law (good faith) as set out in the 1969 Vienna Convention on the Law of Treaties[37]. It is noteworthy that the

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[31] "U.S.-flag vessels seeking authorization to conduct MSR in foreign waters", U.S.Department of State 2005 Report.
[32] Churchill and Lowe, *The Law of the Sea*, 1999, p. 409: "The principle of coastal State consent for research in the EEZ is now part of customary international law."
[33] Article 248.
[34] Article 249 (1) para {a}.
[35] Article 249 (1) paras {b}, {c} and {d}.
[36] Article 58 para 3.
[37] Article 26 Vienna Convention 1969.

ICJ has held that good faith is "one of the basic principles governing the creation and performance of legal obligations, whatever their source"[38].

As UNCLOS is acknowledged to be an umbrella convention, its provisions can be implemented only by specific regulation through other international agreements adopted by the competent international organization. Since for most intents and purposes, this organization will be the IMO and given the focus of this paper, we need to introduce the IMO here.

As of May 2006, IMO had 166 member States, three of which were associate members[39]. Sixty-three non-governmental organizations enjoy consultative status at IMO and 36 inter-governmental organizations have agreements of cooperation with IMO[40].

The Assembly is the highest governing body of the IMO[41]. It conducts its work through four main Committees open to all member States, that is the Maritime Safety Committee (MSC), the Legal Committee (LEG)[42], the Marine Environment Protection Committee (MEPC) and the Technical Co-operation Committee (TCC).

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[38] Nuclear test cases (Australia-France), ICJ reports (1974), 235 para 46.
[39] Hong Kong, Macao and the Faroe Islands.
[40] IMO PowerPoint 2006, Public Information Services (PIS), External Relations Office.
[41] The Assembly consists of all member States. It is responsible for approving the work programme and electing the Council, which is composed of 40 States since 2002 and responsible under the Assembly for supervising the work of IMO committees.

Mention should also be made of the Facilitation Committee (FAC), which is a subsidiary body of the Council[43].

By 2006, IMO had adopted some forty international conventions and protocols[44] dealing with safety and security[45], prevention of marine pollution[46] and liability and compensation[47]. Figure 4 below sets out the key IMO conventions.

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[42] Established in 1967 after the Torrey Canyon disaster for dealing with all legal matters within the scope of IMO work.
[43] Under the framework of those five basic Committees there are nine sub-committees as follows: Bulk Liquids and Gases (BLG), Carriage of Dangerous Goods, Solid Cargoes and containers (DCS), Fire Protection (FP), Radio-communication and Search and Rescue (COMSAR), Safety of Navigation (NAV), Ship Design and Equipment (DE), Stability and Load lines and Fishing Vessels Safety (SLF), Standards of Training and Watchkeeping (STW), Flag State Implementation (FSI).
[44] IMO PowerPoint 2006, Public Information Services (PIS), External Relations Office.
[45] SOLAS, STCW, SAR, SUA, COLREG, Load Lines.
[46] MARPOL, Dumping, Intervention, Anti-fouling, Ballast Water Management, OPRC.
[47] CLC, IOPC Fund, HNS, Bunkers, Athens.

Figure 4. Table of Status of IMO Conventions (as at 30 April 2006)

Instrument	Date of Entry into Force	Number of Contracting States
IMO Convention	17 March 1958	166
1991 amendments	Not in force	
SOLAS 1974	25 May 1980	156
SOLAS Protocol 1978	01 May 1981	109
SOLAS Protocol 1988	03 February 2000	83
Stockholm Agreement 1996	01 April 1997	10
LL 1966	21 July 1968	156
LL Protocol 1988	03 February 2000	76
TONNAGE 1969	18 July 1982	145
COLREG 1972	15 July 1977	148
CSC 1972	06 September 1977	77
1993 amendments	Not in force	9
SFV Protocol 1993	Not in force	12
STCW 1978	28 April 1984	150
STCW-F 1995	Not in force	5
SAR 1979	22 June 1985	86
STP 1971	02 June 1974	17
SPACE STP 1973	02 June 1977	16
INMARSAT C 1976	16 July 1979	90
INMARSAT OA 1976	16 July 1979	88
1994 amendments	Not in force	40
FAL 1965	05 March 1967	104
MARPOL 73/78 Annex I/II	02 October 1983	137
MARPOL 73/78 Annex III	01 July 1992	122
MARPOL 73/78 Annex IV	27 September 2003	109
MARPOL 73/78 Annex V	31 December 1988	127
MARPOL 73/78 Annex VI	19 May 2005	33
LC 1972	30 August 1975	81
1978 amendments	Not in force	20
LC Protocol 1996	Not in force	27
Intervention 1969	06 May 1975	82
Intervention Protocol 1973	30 March 1983	48
CLC 1969	19 Jun 1975	42
CLC Protocol 1976	08 April 1981	54
CLC Protocol 1992	30 May 1996	113
FUND Protocol 1976	22 November 1994	32
FUND Protocol 1992	30 May 1996	98
FUND Protocol 2000	27 June 2001	-
FUND Protocol 2003	03 March 2005	18
UNCLEAR 1971	15 July 1975	17
PAL 1974	28 April 1987	32
PAL Protocol 1976	30 April 1989	25
PAL Protocol 1990	Not in force	6
PAL Protocol 2000	Not in force	4
LLMC 1976	01 December 1986	50
LLMC Protocol 1996	13 May 2004	21
SUA 1988	01 March 1992	135
SUA Protocol 1988	01 March 1992	124
SUA Protocols 2005 (2)	Not in force	
SALVGE	14 July 1996	52
OPRC 1990	13 may 1995	87
HNS Convention 1996	Not in force	8
OPRC/HNS 2000	Not in force	14
Bunkers Convention 2001	Not in force	10
Anti-Fouling (AFS) 2001	Not in force	16
BWM Convention 2004	Not in force	6

Source: IMO Website at www.imo.org et al.

The legal status of the maritime zones has also been considered in the four IMO Conventions establishing a regime of civil liability and compensation for ship-source pollution damage (the Civil Liability Convention, the FUND Convention, the HNS Convention, 1996, and the Bunker Oil Convention, 2001). State Parties to these conventions have a right to claim compensation for pollution damage depending on where the damage occurred, that is either within their territory, the territorial sea, or in the EEZ.

It may be appropriate to note that the provision in the IMO conventions which mentions the EEZ area is the same and reads as follows:

> *In the exclusive economic zone of a State party, established in accordance with international law, or, if a State party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baseline from which the breadth of its territorial sea is measured.*

As Stated above, IMO has adopted various conventions covering specifically the EEZ while other conventions did not mention the EEZ. Yet, States could apply these conventions in their EEZ's. An example in point is MARPOL.

a) Protection of the Marine Environment

UNCLOS provisions on the coastal State's rights and duties regarding pollution control in its EEZ are not clear-cut and are characterized by generality. However, UNCLOS requires States when exercising their rights to conform to relevant international regulations and standards adopted "through the competent international organization", that is IMO.

As Stated above, the coastal State jurisdiction includes protection and preservation of the marine environment[48]. Thus, the coastal State has the power to control pollution in

[48] Article 56 para 1 (b).

the EEZ from foreign vessels and adopt legislation for the prevention, reduction and control of marine pollution in the EEZ[49] in conformity and in compliance with international standards and rules established by the competent international organization, i.e. the IMO[50]. The latter's responsibilities include the development, adoption and continual updating of acceptable global standards, including conventions, through its focus on maritime safety and prevention of marine pollution[51]. The coastal State may enforce stricter rules than the international standards to control vessel-source pollution in clearly defined areas of its EEZ provided those rules have been approved by the IMO, and after having given at last fifteen months notice of their entry into force[52].

Moreover, articles 218 and 220 give the coastal State the right, in case of any discharge from a foreign vessel in violation of applicable international rules and standards, e.g. MARPOL 73/78, within the EEZ, to inspect the vessel and, where the evidence so warrants, to institute proceedings including arrest of the vessel[53].

Article 210(5) forbids dumping in the EEZ without the express prior approval and permission of the coastal State. The latter is required to adopt regulations not less effective than global rules on dumping; this is a clear reference to the London Dumping Convention 1972 and its related 1996 protocol, which are minimum international standards[54].

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[49] Article 211para 5.

[50] IMO is U.N specialised agency for maritime affairs, it had this name from May 22, 1982 as it was before that known IMCO the Inter-Governmental Maritime Consultative Organization established by U.N conference held in Geneva on March 6, 1948 and its Constitutive treaty entered into force on March 7, 1958. www.imo.org.

[51] IMO has adopted a significant number of conventions on the marine environment, the most important of which is the International convention for the prevention of marine pollution by ships (MARPOL 73/78), which deals with all forms of pollution of the sea from ships.

[52] Article 211 para 6 (a).

[53] Article 220 para 6, on 13 february 2006, India Supreme Court decided that the French carrier Clemenceau should not be allowed to enter india's EEZ as hazardous waste "toxic material" Clemenceau is laden with hundreds of tonnes of toxic asbestos. The court has also asked the defence ministry to form a panel to assess the amount of toxic waste on the ship. BBC News, India Media Ban over 'Toxic' Ship, 13 February 2006.

[54] Dumping (the deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms, or other man-made structures) IMO adopted Convention on the Prevention of Marine Pollution by Dumping (London Convention 1972) and its protocol 1996 which entered in force on 24 march 2006. www.londonconvention.org

Since it was envisaged that UNCLOS would be implemented through more specific international agreements, IMO has adopted several instruments[55]. The coastal State has rights through IMO conventions such as the HNS Convention 1996[56], under which the coastal State can claim compensation for any damage caused by hazardous and noxious substances carried by sea in the EEZ[57]. Similar rights of claim are granted under the Fund Protocol 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971[58]. Such rights of claim where enhanced by the IMO through the adoption of the Protocol of 2003 amending the International Convention on the Establishment of an International Compensation Fund for oil Pollution Damage, 1992.

The Bunkers Convention was also adopted by IMO to improve victims' protection. The coastal State has an effective right to compensation for damage caused by spills of oil carried as fuel in ships' bunkers in its EEZ[59]. As it will be examined below, the instruments adopted by IMO typically lay down the international standards and rights of the coastal State in the EEZ.

MARPOL 73/78

MARPOL is the basic IMO convention dealing with prevention of pollution of the marine environment by ships. MARPOL has six annexes[60], which are updated by more than 33 MEPC resolutions the latest of which was adopted at the 54th session of

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[55] IMCO, now the IMO, has contributed to the negotiations of UNCLOS III 1973-1982 to ensure that the development of its conventions conformity with the principles guiding the development of UNCLOS. See U.N General Assembly, A/AC.259/11, 11 May 2004.

[56] International Convention on Liability and Compensation for Damage in Connection with Carriage of Hazardous and Noxious Substances by sea, 1996. adopted on 3 May 1996 and it has not entered into force yet, IMO documents: LEG/CONF.10/8/2 of 9 May 1996

[57] Accordining to article 3(2) of the HNS convention the claim may be made by individuals, partnerships, companies, private organisations or public bodies including States or local authorities.

[58] Adopted on 27 November 1992 and Entry into force on 30 May 1996, IMO documents: LEG/CONF.9/16 of 2 December 1992

[59] International Convention on Civil Liability for Bunker Oil Pollution damage, 2001 Adopted on 23 March 2001 and still not yet in force. IMO documents: LEG/CONF 12/19 of 27 March 2001.

[60] Annex I: Prevention of Pollution by Oil, entered into force 2 October 1983; Annex II: Prevention of Pollution by Noxious Liquid Substances in Bulk, entered into force 6 April 1987; Annex III: Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form, entered into force 1 July 1992; Annex IV: Prevention of Pollution by Sewage from Ships, entered into force 27 September 2003; Annex V: Prevention of Pollution by Garbage from Ships, entered into force 31 December 1988;

the MEPC. As such IMO ensures that its conventions are kept up to date with developments in the shipping world and technology[61]. And bring their provisions into line with relevant provisions of UNCLOS.

MARPOL is designed to minimize negligent pollution and help protection the marine environment. It was adopted in 1973 the year of UNCLOS III begging. However article 9 Para 2 states that:

> *Noting in the present convention shall prejudice the codification and development of the law of the sea by United Nations conference on the law of the sea convened pursuant to resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.*

Under MARPOL there are eight special areas including the Mediterranean Sea with strict controls on discharge of oily wastes[62] as such areas are very sensitive and provided with a high level of protection. Article 211 Para 7 of UNCLOS envisages the establishment, through the competent international organization (viz IMO) of international rules and standards relating to the prompt notification to a coastal State whose coastal line or related interests may be affected by incidents. The existing international rules and standards in respect of incidents, which involve discharges or probability of discharges, are those contained in MARPOL.

Moreover, Articles 218 and 220 give the coastal State the right, in case of any discharge from a foreign vessel in violation of applicable international rules and standards (MARPOL 73/78) within the EEZ, to inspect the vessel and, where the evidence so warrants, institute proceedings including arrest of the vessel.[63]

Annex VI: Prevention of Air Pollution from Ships, entered into force 19 May 2005. States must accept Annexes I and II while the other Annexes are voluntary.

[61] MEPC in 54th session hold on 20-24 March 2006 adopted 2006 amendment to the revised Annex I (2004), which will enter in force 1 January 2007, and the 2006 amendments will enter into force 1 August 2007. MEPC 54/WP.10 dated 23 March 2006.

[62] Mediterranean Sea, Baltic Sea, Black Sea, Red Sea, Gulfs area, Gulf of Aden area, Antarctic area and North West European waters.

[63] Article 220 Para 6, on 13 February 2006, India Supreme Court decided that the French carrier Clemenceau should not be allowed to enter India's EEZ as hazardous waste "toxic material"

State Parties can apply MARPOL not only in their territorial waters, but also in the EEZ where the coastal State can take high measures against the crew if there is clear evidence that the ship was involved in a violation of MARPOL rules by intent or do not act reasonably to minimize the damage of pollution. Several States have started including in their criminal law unlawful discharges at sea by ship[64].

However MARPOL Regulations on the exercise of flag and port State jurisdiction should be related to the UNCLOS provisions dealing with the exercise of coastal State jurisdiction in connection with the enforcement of anti-pollution measures.

Protocols of 1992 amending the CLC 1969 and FUND 1971 Conventions

The 1992 protocol[65] replaced the CLC 1969[66]; the State parties on it from 16 May 1998 denounced the convention and became party to the 1992 CLC protocol[67]. Ship registered in a 1992 CLC protocol country need only carry the CLC 1992 certificate even when they are in ports of 1969 CLC States[68].

The CLC 1992 applies only ships, which carry oil in bulk as cargo and does not apply to bunker spills from ship other than tankers.

The protocol extends the scope of the "old regime CLC 1969" to cover the EEZ area. The coastal State party has rights to claim compensation to cover any damage caused

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Clemenceau is laden with hundreds of tonnes of toxic asbestos. The court has also asked the defence ministry to form a panel to assess the amount of toxic waste on the ship. BBC News, India Media Ban over Toxic' Ship, 13 February 2006.
The Libyan environmental code provides for imprisonment in the event of a violation of "Marpol rules" as integrated into the code and applies to all ships sail in the Libyan maritime zones. The same may be said of France code's of criminal procedure and the draft EU directive criminal laws governing ship-source pollutionr '

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[65] Adopted on 27 November 1992 and entered into force on 30 may 1996.The were 104 contracting parties as of February 2005: LEG 90/13 Dated 11 February 2005.

[66] Adopted on 29 November 1969 and entered into force 19 June 1975.The number of contracting party (45) as February 2005. LEG 90/13 Dated 11 February 2005.

[67] Same to the Found 1992 protocol, which replaced the (International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971) which ceased to be in force on 24 may 2002. both of them the Fund 1971 and CLC 1969 are old regime.

[68] Article 7 Para 3.

in its EEZ. The amount of compensation was increase up to 750 million special drawing right 'SDR'[69] (about US$ 1.25 billion) by virtue of the 2003 protocol[70] as result of oil incident which have shown that the amounts of compensation did not cover all the damage caused and were as such too low, for example the "Erika" a Maltese registered tanker which split in two and sank off the northwest coast of France on December 12, 1999. It spilled 30,000 tonnes of fuel oil cost France US$ 785-900 million [71], the "Exxon Valdez" which ran aground in Alaska on 1989, spilling 37,000 tonnes of crude oil, with clean-up costs amounting to US$ 3 billion[72] and the "Prestige" the Bahamas registered tanker which sank about 150 miles from the Spanish coast within Spain's EEZ and was carrying a cargo of 77,000 tonnes of "fuel oil" one of the most environmentally damaging cargoes[73]. The "Prestige" claims may exceed EUR 1 billion[74].

The same may be said of the International Oil Pollution Compensation Fund 1992, which cover EEZ damage.

The FUND 1992 supplements to the CLC 1992 for the compensation of victims in a State party to the FUND 1992 when the damage can not be covered by CLC 1992 in case they have not received full compensation. It is more advantages for a State party and the compensation higher than under the FUND 1971[75].

HNS Convention 1996

The aim of the convention is to provide an adequate, prompt and effective compensation covering the persistent oil hazards not covered by CLC or the Fund convention.

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[69] Unite of account referred to in paragraph 4 of article 6.
[70] Adopted in May 2003 and entered into force on 3 March 2005. After rifted by Spain, which had been, suffered huge damage on its EEZ by prestige incident, also France and Portugal, which suffered from same incident, ratified the protocol.
[71] Fairplay, 25 January 2001, page 7.
[72] P& I Perspective, Bill Kirrane, Thomas Miller P&I Ltd, The 8th Annual International Salvage and Wreck Removal Conference 14-15/12/2005, London, conference documentation
[73] On 13 November 2002, the Bahamas registered tanker Prestige began listing and leaking oil and on 19 November the vessel broke in two and sank released an estimated 25,000 tonnes of cargo.
[74] 18th Annual Oil Pollution 2005 Regulation, Liability and Emergency Response, P&I View of Pollution Claims, Jonathan Hare, page 5 and 6.
[75] As at 18 May 2006 the 1992 fund has 93 States, this number will increase to 98 by the end of 2006 after 5 States have deposited instruments of accession: 92FUND/A/ES.11/3 dated on 18 May 2006.

IMO through the LEG has established correspondence group for exchange of views and helping States ratify the convention, which is expected to come into force[76] as soon as several EU States moves to ratify the convention by the end of 2006[77].

Under this convention the coastal State can claim up to 250 million SDR (about US$ 336 million)[78] as compensation to damage in its EEZ in connection with carriage of hazard use and noxious substances "HNS". The coastal State has also a right to claim compensation in case of loss of life or injury or property damage and risks of fire and explosion. The HNS convention enshrines the strict liability of the ship owner who must carry a certificate of insurance on board and copy with flag State authorities.

Bunkers Convention 2001

On 23 of March 2001, IMO adopted the International Convention on Civil Liability for Bunker Oil Pollution Damage (herein referred to as the "Bunker convention"). The adoption of this convention aimed at filling a gap in the effort of IMO for the protection of the marine environment from pollution caused by spills of bunker oil[79] from vessels other than tankers, as pollution damage was already partly addressed by the international convention on civil liability for oil pollution damage 1969, amended by the 1992 protocol, and the international convention on establishment of an international fund for compensation for oil pollution damage 1971 amended by the 1992 protocol and 2003 protocols.

[76] In accordance with article 46, the convention shall enter into force 18 months after 12 States, including 4 States each with two million units of gross tonnage, have ratify the convention.
[77] Until March 2006 States party are Angola, Cyprus, Morocco, the Russian Federation, Saint Kitts and Nevis, Samoa, Slovenia and Tonga. Furthermore Canada, Denmark, Finland, Germany, the Netherlands, Norway, Sweden and United Kingdom have singed the treaty, subject to ratification. LEG 91/7, Dated on 24 March 2006.
[78] Upon to the units of gross tonnage of the ship.
[79] Article 1 State that bunker oil "any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil".

The Bunker convention provides for the strict liability of the owner[80] of the ship and compulsory insurance to cover the liability in an amount equal to the limits of liability under the applicable national or international limitation regime.

Article 2 of the convention extends its scope of application to cover the area of an EEZ and states that the convention applies exclusively to pollution damage caused in the EEZ.

The Bunkers Convention gives the rights to the court of the coastal State where the damage occurred to exercise their jurisdiction[81]. However the convention does not include figures of limitation of liability but refers to the applicable law and the convention on limitation of liability for maritime claims, 1976 as amended by the protocol of 1996[82].

The Bunkers Convention is still waiting a sufficient number of ratifications to meet the requirements for its entry into force.

Wreck Removal Convention

It is noteworthy that there is no convention dealing with wreck removal and the problem posed by wrecks to costal States especially in enclosed and semi-enclosed seas. Moreover, UNCLOS does not specifically refer to wreck, although it grants the right to the costal State to remove anything that may threaten the safety of navigation or the marine environment[83]. Furthermore, the coastal State may take and enforce measures beyond the territorial sea to protect its coastline or related interest from pollution or the threat of pollution resulting from maritime casualty[84]. However it was not clearly approve removal of wrecks from the zones beyond the territorial sea.

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[80] Article 3 has wide defines of the ship owner as "registered owner, bareboat charterer, manager and operator of the ship" and in case there are more than one person liable the liability shall be joint. Art 3 Para 2.
[81] Article 9.
[82] Article 6 and resolution 1 adopted by same convention conference, which is contained in the attachment to the final act on limitation of liability.
[83] Part XII of UNCLOS.
[84] Article 221 of UNCLOS

The problem of wrecks was first highlighted to IMO in 1975 when it was included in the long-term programme of IMO for 1978-1982 by resolution A.367 (IX)[85].

The new draft convention currently under preparation within the framework of IMO once adopted will be the first international convention on wreck removal adopted by IMO to enhance uniformity of international law and filling an existing gap in international law. It will grant coastal State the legal basis and legitimacy to remove wrecks from its EEZ with rights of compensation payable.

Furthermore the purpose of the convention is to provide international rules on the right and obligations of States with regard to the wreck removal and financial security to cover liability for costs of their removal.

Over the years, IMO through LEG has continued working on the draft convention[86], which is expected to be adopted in May 2007[87]. The LEG has established a working group lead by the Netherlands as co-ordinator of the work of the correspondence group to conduct review of the draft of convention[88].

During the work on draft provisions of the convention and extensive discussions in LEG sessions, it was agreed that the final form must be consistent with UNCLOS and that the scope of the convention area will be in EEZ as defined in on Article 1 which states that:

> "*Convention area*" *means the exclusive economic zone of a State party, established in accordance with international law, or, if a State party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law*

[85] Adopted at ninth regular session of assembly on 14 November 1975.
[86] The LEG has decided to consider developing a convention on wreck removal at 69th session in September 1993.
[87] The LEG on 91st session intended to adopt the convention by a diplomatic conference in Neroby, Kenya on 14-18 May 2007. LEG 91/ dated on 27.April 2006
[88] Working Group is essentially an open forum attended by delegations from IMO members States or organizations for developing the text of the conventions or resolutions and guidelines. The DCWR was prepared by Germany, Netherlands and United Kingdom, LEG 73/11

and extending not more than 200 nautical miles from the baseline from which the breadth of its territorial sea is measured[89].

Finally, the enforcement of IMO conventions has always depended on the governments of States parties. AS a matter of fact, they are supposed to enforce the provisions of IMO instruments as far as their own ships are concerned and also set the penalties for non-compliance. In this regard, enforcement lies largely with the flag State, that its obligations are contained in the UNCLOS[90] and detailed in specialized IMO instruments.

b) Maritime Security

The coastal State will have great power after the entry into force of the amendments to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA Convention)[91], and its related Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf 1988[92], adopted by a diplomatic conference held on 10-14 October 2005 at the London headquarters of the International Maritime Organization (IMO). Amendments to the SUA Convention by the 2005 protocols broadened the list of unlawful acts to include the using of a ship itself in manner that causes death or damage, and the transport of weapons or equipment that could be used for weapons of mass destruction if those are under the control of a State not party to the Convention on the Non Proliferation of Nuclear Weapon[93]. Furthermore, the protocol grants States permission to seize ships by force.

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[89] ELG 91/3 dated 16 February 2006.
[90] Article 94 of UNCLOS
[91] In accordance with article 18, the 2005 Protocol to the SUA Convention will enter into force 90 days following the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General. See full text in IMO document LEG/CONF.15/21 dated 1 November 2005.
[92] In accordance with article 9, the 2005 Protocol to the 1988 Protocol will enter into force 90 days following the date on which three States have either signed it without reservation, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession with the Secretary-General. However, the 2005 Protocol to the SUA Convention must be in force first. See full text in IMO document LEG/CONF.15/22 dated 1 November 2005.
[93] Article 3 bis (1)(b)(iii) 2005 Protocol to SUA Convention.

Speaking at the close of the Conference, IMO Secretary-General Efthimios E. Mitropoulos said:

> *We are running a race against time in our efforts to prevent and suppress unlawful acts against the safety of maritime navigation and to bring to justice the perpetrators of the unlawful acts covered by the 2005 SUA Protocols. Early entry into force of Protocols is therefore of the essence.*[94]

The SUA treaties complement the practical maritime security measures adopted by IMO in December 2002 including SOLAS chapter XI-2 (Special measures to enhance maritime security) and the International Ship and Port Facility Security Code (ISPS Code).

One can only hope that when States apply the provisions of the protocols, they do so in conformity with the provisions of UNCLOS, and make sure that no action might be interpreted in such away as to conflict with the principle of flag State jurisdiction as recognized by international law. Moreover, these amendments should be applicable only to States parties and cannot be extended to States not party[95].

c) Artificial Islands, Installations and Structures

The coastal State has the exclusive right to construct and to authorize and regulate the construction, operation, and use of artificial islands[96], installations and structures including jurisdiction with respect to customs, fiscal, health, safety, and immigration law and regulations[97].

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[94] The protocols were opened for signature at the IMO headquarters from 14 February 2006 and will remain open for signature until 13 February 2007. Thereafter, they will remain open for accession. As of April 2006, 7 States had singed the 2005 Prtocols namely: Australia, Austria , Finland, France, Norway, Sweden and United Stated: Treaty and Rules Section, Sub-divistion for Legal Affaris, IMO.
[95] Article 34 Vienna Convention 1969 provides that: "A treaty does not create either obligations or rights for a third State without its consent". Article 26 states: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." See also the statements made by Pakistan and India, IMO document, LEG/CONF 15/19 & 15/20 dated 15 November 2005.
[96] Article 60 para 1 UNCLOS.
[97] Article 60 para 1 UNCLOS.

The coastal State is also empowered to establish safety zones up to a 500-meter breadth around artificial islands[98]. However, such zones may not be established if they will cause interference with the use of recognized sea-lanes essential to international navigation[99]. It is clear that the purpose of establishing safety zones is to ensure the safety of artificial islands and international navigation taking into account any generally accepted international standards established in this regard. The foregoing also applies to the removal of installations or structures for ensuring safety of navigation, which matter is conferred by UNCLOS to the competent international organization dealing with the subject (IMO)[100].

This exclusive jurisdiction also includes criminal jurisdiction with regard to offences committed on or against such artificial islands in the EEZ[101].

d) Status of IMO Conventions for Libya

At this stage it is worth referring to the IMO instruments which Libya[102] is a party to:

- *Safety*
    - International Convention for the Safety of Life at Sea, 1974 as amended (SOLAS).
    - SOLAS Protocol 1978.
    - SOLAS Protocol 1988[103].
    - International Convention on Load Lines, 1966 (LL).
    - Protocol 1988 to the International convention on Load Lines, 1966 (LL Protocol 1988).

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[98] Article 60 paras 4, 5 UNCLOS.
[99] Article 60 para 7, articles 260 and 262 UNCLOS.
[100] International Maritime Organization (IMO) by Resolution A.672 (16) adopted on 19 October 1989 issued Offshore Installations-guidelines "guidelines and Standards for the Removal of offshore Installations and Structures on the Continental Shelf and in the Exclusive Economic Zone".
[101] See the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 and its related Protocol (SUA Convention).
[102] Libyan Arab Jamahiriya is membership of IMO since 16 February 1970: Focus on IMO, Basic facts about IMO, March 2000, page 5.
[103] Ratified by the Law No 18 0f 2003 and stil under the proceed to deposit an instrument of ratification, with the Secretary-General

- International convention on Tonnage Measurement of Ships, 1969 (TONNAGE).
- Convention on the international Regulations for Preventing Collisions at Sea, 1972
- Convention on the International Maritime Satellite Organization (INMARSAT) and Operating Agreement, 1976.
- International convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended (STCW).
- International Convention on Maritime Search and Rescue, 1979 (SAR).

- *Prevention of marine pollution*

  - Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972
  - International convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, as amended (MARPOL).
  - International convention on Oil Pollution Preparedness and Response, 1990 (OPRC).

- *Liability and compensation*

  - International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 69).
  - Protocol 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (FUND Protocol 1992)[104].
  - Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL)[105].
  - Protocol 1976 to amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL Protocol 1976)[106].

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[104] Ratified by Law No 18 of 2003 and still pending deposit of an instrument of ratification with the Secretary-General.
[105] Ratified by Law No 15 of 2004 and still pending deposit of an instrument of ratification with the Secretary-General.
[106] Ibid.

- Protocol 1992 to amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL Protocol 1992)[107].

- *Security and other matters*

  - IMO Convention.
  - IMO amendments 1993.
  - Convention on Facilitation of International Maritime Traffic, 1965, as amended (FAL)
  - Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 (SUA)
  - *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988 (SUA Protocol).*

II. Rights Enjoyed by Other States

Without prejudice to the sovereign rights and jurisdiction of the coastal State, all States enjoy the freedoms of navigation and overflight and laying of submarine cables and pipelines and any other lawful uses of the sea. Those rights are stated in article 58 of UNCLOS which provides that the coastal state must have due regard to the rights and duties of other States, and vice-versa[108]. Moreover, other States must comply with the laws and regulations adopted by the coastal State which are compatible with the EEZ regime and international law.

The freedoms enjoyed by other States in the EEZ are the same freedoms exercised by all States on the high seas, and are contained in part VII of UNCLOS which establishes the high seas regime[109]. Landlocked States, of which there are 42 in the world[110], also have the right to enjoy the freedoms and take part in the exploitation of

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[107] Ibid.
[108] Cross reference to articles 87 and 58 Para 1.
[109] Articles 69 Para 1, 61 and 62.
[110] Landlocked States (LLS) are Afghanistan, Andorra, Armenia, Austria, Azerbaijan, Belarus, Bhutan, Bolivia, Botswana, Burkina Faso, Burundi, Central African Republic, Chad, Czech Republic, Ethiopia, Vatican, Hungary, Kazakhstan, Kyrgzstan, Laos, Lesotho, Liechtenstein, Luxembourg, Macedonia, Malawi, Mali, Moldova, Mongolia, Nepal, Niger, Paraguay, Rwanda, San Marino, Slovakia, Swaziland, Switzerland, Tajikistan, Turkmenistan, Uganda, Uzbekistan, Zambia and Zimbabwe. Two of those (Liechtenstein and Uzbekistan) are doubly landlocked.

the living resources of the EEZ of the coastal States in the same region. This right is however subject to the applicable geographical and economic factors, and limited by the coastal State's regime for conservation and utilization of the living resources in the EEZ[111]. The relevant States must establish the conditions under which a landlocked State may access the EEZ of the coastal State through bilateral agreements, which take into account the needs of the fishing industries of the coastal State and the needs of the population of the landlocked State[112]. Furthermore, the coastal State is obligated to ensure that the living resources of its EEZ are not endangered by over-exploitation[113] and to cooperate with the competent international organizations in exchanging data on conservation of fish stocks in the EEZ as fish may cross from the EEZ of one State into that of another[114].

[111]Article 60 Para 2.
[112] Article 60 Para 5.
[113] Article 61 Para 2.
[114] See Barbara Kwiatkowska, The 200-mile exclusive economic zone in the new law of the sea, Martinus Nijhoff (1989).

CHAPTER THREE: EEZ DELIMITATION AND RELATIONSHIP WITH THE CONTINENTAL SHELF

I. Relationship with the Continental Shelf

At first glance, it must be admitted that there is a close and strong relationship between the EEZ and continental shelf regimes. During the UNCLOS III negotiations, there were three schools of thought dealing with the relationship between the EEZ and the continental shelf. The first wished to subsume the continental shelf regime into the EEZ. The second favoured the fusion of the two regimes within 200 n.m. and apply only the continental shelf. The third position was that both regimes should continue to exist and remain autonomous of each other. This last position, supported by Australia, was adopted in UNCLOS 1982[115].

Part V of UNCLOS clearly deals with the exclusive economic zone whereas Part VI establishes the continental shelf regime. Furthermore, article 56(3) of UNCLOS establishes that the rights, jurisdiction and duties of the coastal State in the EEZ with respect to the seabed and subsoil shall be exercised in accordance with Part VI. Moreover, as pointed out by Judge Gros in his dissenting opinion in the Gulf of Maine case[116], article 56 of UNCLOS, which defines the EEZ and the rights, jurisdiction and duties attributed to the State, ends with the following words:

> *the rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with part VI*[117].

Part VI contains the continental shelf and includes ten articles, of which article 76 contains the definition of the continental shelf. In fact, when we compare articles 55, 62, 73 and 74 with articles 76, 77, 78, 81 and 83, we conclude that there are two legal regimes.

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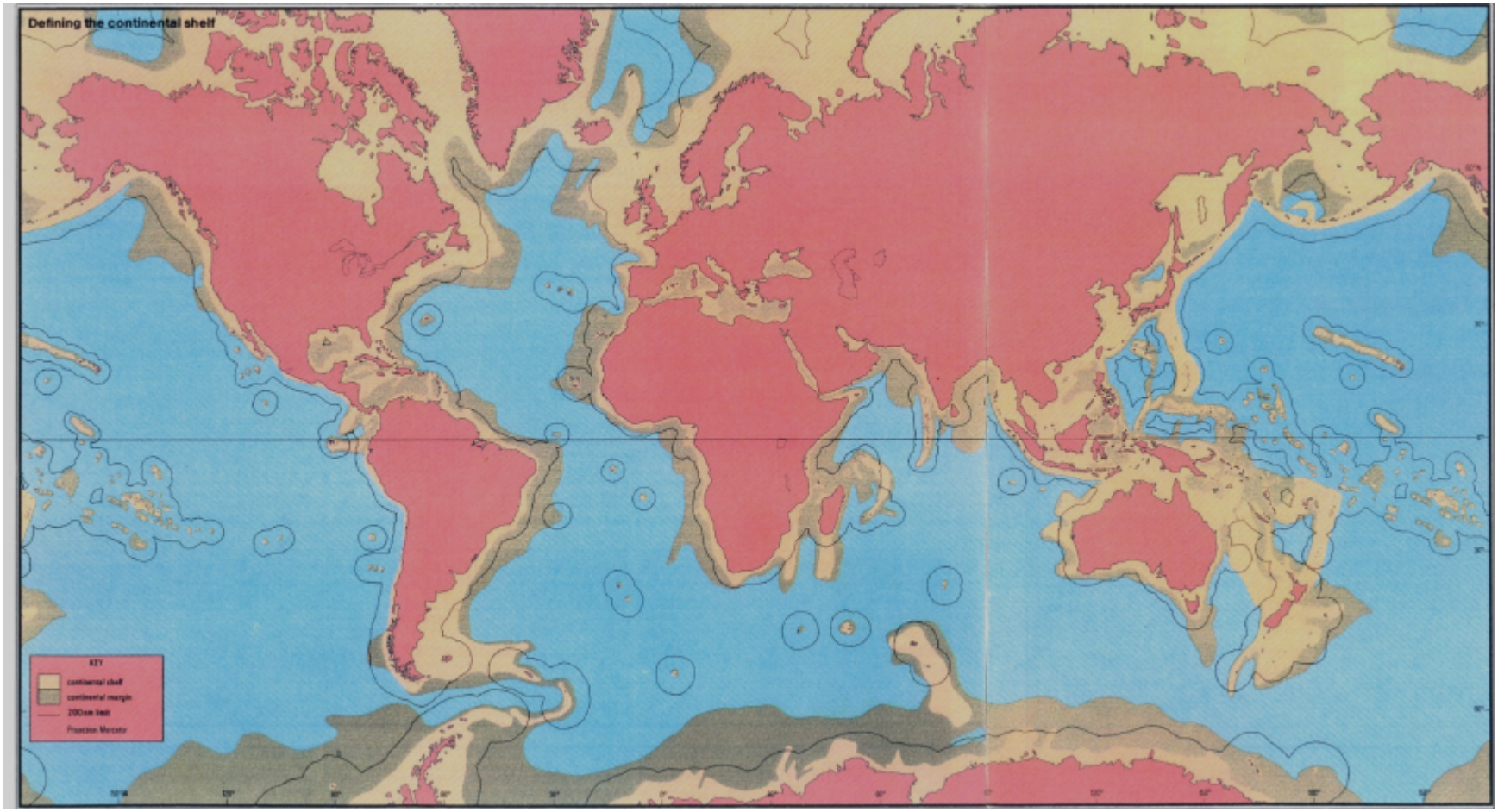
[115] See Attard, The Exclusive Economic Zone in International Law, p.138.
[116] Judge Gros in his dissenting opinion in the Gulf of Maine case, ICJ Reports (1984) page 246.
[117] Article 56 UNCLOS.

Furthermore, the new EEZ regime is younger than the doctrine of the continental shelf [118] and has special characteristics which are different from those of the continental shelf. The continental shelf covers only the non-living resources and sedentary living resources[119], but the EEZ covers all natural resources whether living or non-living, and it extends to a maximum distance of 200 n.m. whereas the continental shelf may extend beyond 200 n.m. However, the most important difference between the two regimes is that a State must claim its EEZ in order to exercise its rights and jurisdiction since, otherwise it can be claimed by another State, whereas the continental shelf rights of a State do not require proclamation or occupation under the UNCLOS and international law.

[118] In international law, the continental shelf was adopted as part of the Convention on the Continental Shelf, done at Geneva on 29 April 1958 and in force on 10 June 1964, while the EEZ was adopted only in the UNCLOS (United Nation Convention on the Law of the Sea 1982).
[119] Articles 68 and 77 UNCLOS.

Figure 5. Map of Boundaries of all Exclusive Economic Zones of the World and the Continental Margin



Source: Office of the Geographer, Department of State, Washington, D.C.

II. EEZ Delimitation

During UNCLOS III, there was a long discussion regarding the content of Articles 74 and 83, which deal with the principles for delimitation of the exclusive economic zone and the continental shelf[120]. Two positions emerged. The first, led by Spain, favoured the 'equidistance line'. The second, led by Ireland, favoured 'equitable principles'. Libya was part of the second group and argued that delimitation should be based on agreement between the States taking into account all circumstances[121].

In fact, in the North Sea cases related to the delimitation of the maritime boundary between the Federal Republic of Germany and Denmark on the one hand, and between the Federal Republic of Germany and the Netherlands on the other hand, the ICJ pointed out that the equidistance principle was not a rule of customary international law[122]. The Court considered that the principle of equidistance had not been proposed by the International Law Commission as an emerging rule of customary international law:

> *the equidistance principle was not a necessary consequence of the general concept of continental shelf right, and was not a rule of customary international law.*[123]

The principal support for the equitable principle came from developing States which drew attention at UNCLOS III to the economic aspects of the newly created maritime zones limits and the particular conditions arising in enclosed or semi-enclosed seas.

The final act was Article 74, which States:

> 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.*

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[120] See E.D. Brown, *The International Law of the Sea*, Volume I, introductory manual (Aldershot: Dartmouth, 1994), pages 156-157.
[121] A/CONF.62/C.2/L.82, 1974 (Official Records of the Third United Nation Conference on the Law of the Sea).
[122] Paras 60-82 of the ICJ judgment on 20/February/1969.
[123] Ibid.

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 VX.*

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.*

Looking at Article 38 of the Statute of the ICJ, one does not find any guidelines. It only provides that the Court will reach its judgment by applying international conventions expressly recognized by the contesting State, by international custom as evidence of a general practice accepted as law, by general principles of law recognized by civilized nations (it is quite hard to understand the use of the term "civilized" in the third millennium), and by judicial decisions and the teachings of the most highly qualified publicists.

It is clear that Article 74 does not refer to any clear-cut manner in which to undertake delimitation, or what methods can be used. It only provides an assurance of an "equitable result". This has been taken up in the Libya-Malta case in 1985, the ICJ holding in that judgment:

> *Delimitation is to be effected in accordance with equitable principles and taking account of all the relevant circumstances in order to achieve an equitable result*[124].

There is a conceptual unintelligibility in the equitable principles as one State

[124] ICJ Reports 1985, Para 29, Libya- Malta case.

may believe that methods and relevant factors are equitable for the delimitation whereas the other State might disagree or put forward different ideas on the proper base points from which the zone being delimited should be measured[125].

In the negotiations of the UNCLOS III, some States from the Mediterranean Sea such as Libya, Algeria and Turkey were interested in adopting specific rules on the delimitation of maritime boundaries for semi-enclosed seas[126]. In the relatively narrow Mediterranean Sea, the EEZ in most areas overlaps with the continental shelf within 200 n.m. This geographical situation may lead States bordering the Mediterranean Sea to adopt a delimitation line by 'a single' maritime boundary (SMB) for both the EEZ and the continental shelf.

For example in the 2001 case between Qatar and Bahrain, the parties requested the ICJ to draw a single maritime boundary between their respective maritime areas of seabed, subsoil and superjacent waters[127]. The single equitable maritime boundary between the two States was decided by an absolute majority of the Court[128], which held that:

> *The single maritime boundary that divides the various maritime zones of the State of Qatar and the State of Bahrain shall be drawn as indicated in paragraph 250 of the present judgment.*[129]

In 1982 Judge Jimenez de Arechaga pointed out that "at least in the large majority of normal cases, the delimitation of exclusive economic zone and that of continental shelf would have to coincide"[130]. Furthermore, Judge Evensen pointed out in the same

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[125] Soviet Union and Sweden agreed that the maritime boundary between them should be based on equidistance, but did not agree on the baselines from which the equidistance line would be drawn. See Alex G. Oude Elfernik, *The law of maritime boundary delimitation: a case study of the Russian Federation*, Martinus Nijhoff (1994), p.207.
[126] A/Conf,62/c.2/l.71 of 21 August 1974, c.2/ informal meeting/18, c.2 /informal meeting/18/rev.1.
[127] ICJ Report 1994, 117-118, and ICJ Reports 2001, page 40.
[128] For more information and analyse this case see Barbra kwiatkowska, the Qatar v. Bahrain Maritime Delimitation and Territorial Questions Case, Maritime Briefing, volume 3 number 6, International Boundaries Research Unit, University of Durham, England, 2003.
[129] ICJ Reports (2001), judgment, operative para 252 (6).
[130] ICJ Reports (1982), p. 115.

case that "it is hardly conceivable in the present case to draw different line delimitation for the EEZ and the shelf"[131].

Libya had advanced the opposite view and argued that "the two boundaries need not necessarily coincide"[132], especially where a special agreement between the parties only referred to the delimitation of the shelf[133]. This position seems well-supported[134] given that an SMB may not permanently achieve an equitable result. The Gulf of Maine 1984 case reinforces this position as both a continental shelf and EEZ boundary between the U.S and Canada demonstrated that justice to both States would be through through a two-boundary line whereas the Court was requested to draw an SMB between the two States[135]. The Court articulated the methodology for determining maritime delimitation, holding that:

> *No maritime delimitation between States with opposite or adjacent coasts may be effected unilaterally by one of those States. Such delimitation must be sought and effected by means of an agreement, following negotiations conducted in good faith and with the genuine intention of achieving a positive result. Where however, such agreement cannot be achieved, delimitation should be effected by recourse to a third party possessing the necessary competence.*
>
> *In either case, delimitation is to be effected by the application of equitable criteria and by the use of practical methods capable of ensuring, with regard to the geographic configuration of the area and other relevant circumstances, an equitable result*[136].

In some cases in the Mediterranean, the SMB may not be fully equitable. However, in most cases of delimitation of the territorial sea, the continental shelf and the exclusive economic zone, the SMB based on international law as set out in UNCLOS and customary international law in accordance with equitable principles and relevant

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[131] Ibid, pp.288, 296.
[132] Ibid, p232.
[133] Ibid, para.4.
[134] See Attard (1987), p213, 214, 215 .
[135] Judge Gros in his dissenting opinion in the Golf of Maine, ICJ report (1984), 246.
[136] ICJ Report (1984), at 229-300.

circumstances recognized by general international law as applicable to such cases of delimitation will be justifiable. The France-Monaco agreement was the first example of an SMB in the Mediterranean Sea. The agreement delimited the respective territorial seas of the two States, but can serve for the delimitation of the continental shelf and the EEZ, as they may eventually be proclaimed by them[137].

[137] Signed on 16 Feb.1984 and entered into force on 22 Aug. 1985, and until March 2006 both States claim only EFZ in Mediterranean Sea.

CHAPTER FOUR: THE POSITION IN THE MEDITERRANEAN

I. Introductory Remarks

The Mediterranean Sea is one of the most important maritime zones in the world and the largest of the world's seas. It occupies an approximate area of 2.5 million Km. The body of water is approximately 2.300 miles in length from east to the west, and has a maximum north-south distance of 900 km[138], depth of 16.896 Ft. It includes about 7% of the known world marine fauna and 18% of the world marine flora. 12000 marine species have been recorded in this sea[139]. It contains about 400 species of fish, sponges and natural gas and oil have been found in different parts of the sea.

It lies between the three continents of Europe, Asia and Africa, and is linked to the Atlantic Ocean, the Black Sea and the Indian Ocean through the narrow sill of the straits of Gibraltar[140], the strait of Dardanelles[141] and the Suez Canal and Red Sea, respectively. Due to its central position, the Mediterranean Sea has always facilitated strong maritime relations between States of the region such as Tarabulus, Egypt, Crete and Cyprus about 2000 years B.C. and the Mediterranean continued to be vital to the evolution of the great cultures of the region over the centuries. Clear examples of these are Phoenician, Greek and Arabic Islamic cultures.

There are 22 States around the Mediterranean Sea, two of which are island States (Malta and Cyprus) and the others are mainland States[142]. Many maritime boundaries between those States have yet to be settled.

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[138] Maximum distance between the north coast and south coast (France- Algeria).
[139] UNEP report 1997.
[140] 15 Km wide and 290m deep sill.
[141] 7 Km wide and 55m deep sill.
[142] The Mediterranean States are: Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Italy, Israel, Lebanon, Libyan Arab Jamahiriya, Morocco, Palestine, Serbia and Montenegro, Slovenia, Spain, Syria, Turkey and Tunisia.

Figure 6. Map of States Bordering the Mediterranean Sea

Source: IFREMER.

Figure 7. Table of Coastal, Shelf, and EEZ of Mediterranean Sea States

State	Costal length (km)	EEZ area (shelf) sq.km.
Albania	362	13691 (6979)
Algeria	998	126353 (9985)
Bosnia and Herzegovina	20	50(50)
Croatia	50835	59032(50277)
Cyprus	648	98707(4042)
Egypt	2450	263451(61591)
France	3427	315316 (166002)
Greece	13667	505572(81451)
Israel	273	26352 (3745)
Italy	7600	541915 (116 834)
Lebanon	225	19516(1067)
Libya	1850	351589(64763)
Malta	196	54823(5301)
Monaco	4.1	288(0)
Morocco	1835	274577(53746)
Serbia and Montenegro	199	7745(3896)
Slovenia	46.6	220(220)
Spain	4964	589349(71702)
Syrian	193	110503(1085)
Tunisia	1148	101857(67126)
Turkey	7200	92599(38015)

Source: The World Fact Book 2005 and other sources.

Most Mediterranean countries have not declared EEZs in areas in the Mediterranean Sea for geographic, economic and political reasons[143]. But several of Mediterranean States declared EFZ to protect fish resource although the EFZ was not included or mentioned in the articles of UNCLOS.

Despite this, they accepted the principle of the EEZ and voted in favour of UNCLOS, with the exception of Israel and Turkey [144]. This very widespread ratification of UNCLOS potentially shows that a conventional rule had become general rule of international law accepted by the Mediterranean States. Furthermore, it might be that Mediterranean States were advised by expert publicists who were involved in maritime boundary disputes between Mediterranean States not to declare EEZ's for the reasons mentioned above.

As there are potentially overlapping EEZs between neighbouring States in the Mediterranean Sea, the relevant circumstances must be considered. How should the Mediterranean States delimit their EEZ boundaries? Especially since five Mediterranean States have undertaken national initiatives to extend their jurisdiction by claiming an EEZ[145]. Further complicating the situation there are clear indications that the disputed areas are resource rich.

Professor Evans points out that there are three factors that must be taken into account when examining disputed areas, that is:

- "Area of delimitation".
- "The relevant coasts"- the coastline fronting upon the relevant area.

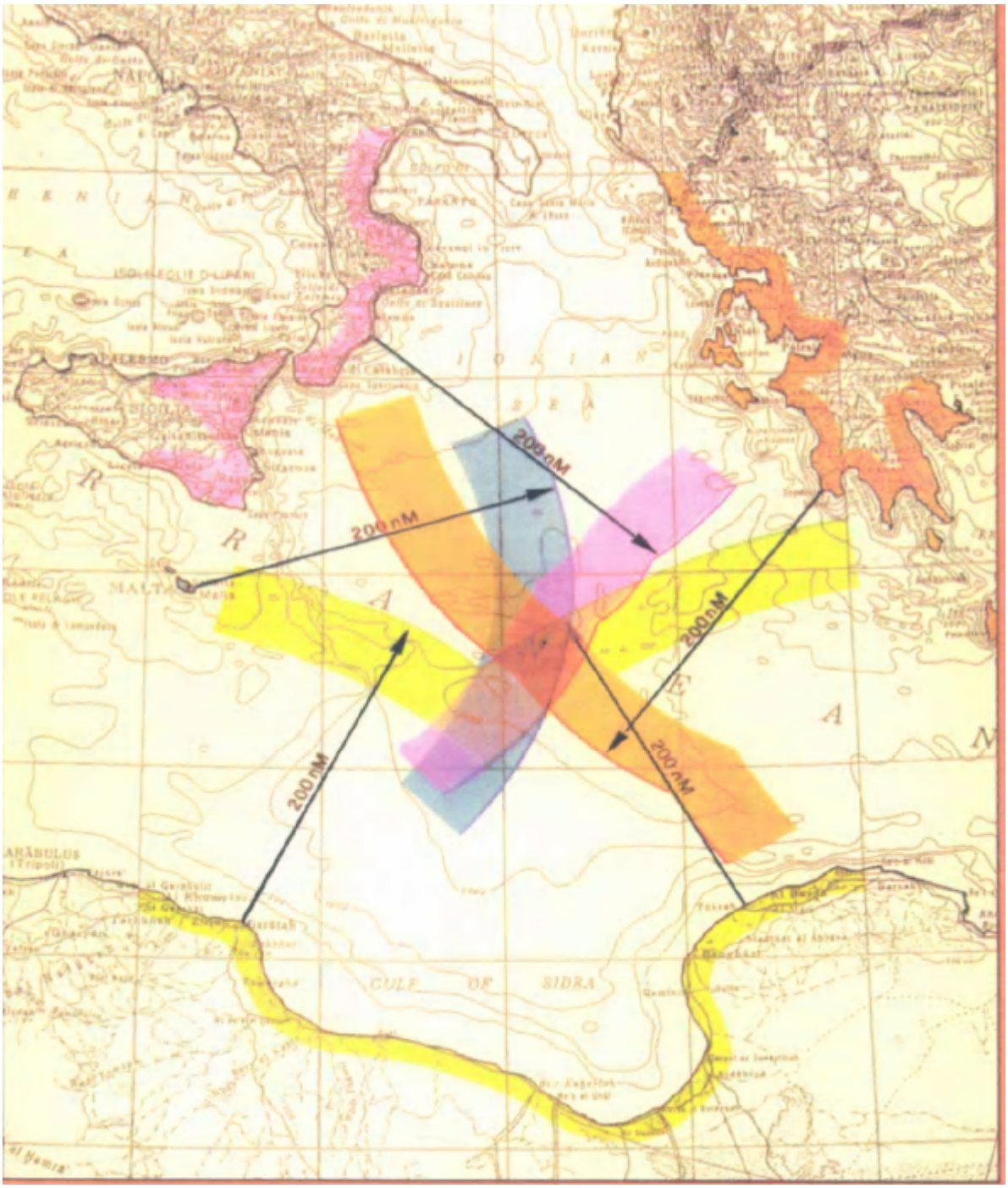
[143]See Faraj Ahnish, The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea, Clarendon Press Oxford, 1993, pages 344-345

[144] As of August 2005, seventeen Mediterranean States had ratified UNCLOS and two States had signed the convention .source: http://untreaty.un.org .

[145]Morocco in 1981 by the law No 1-81 of 1980, Egypt in 1983 by Declaration upon ratification UNCLOS on 26 Aug 1983, Syria in 2003 by the Law No 28 of 2003 , Cyprus in 2004 by the Law No 64(I) of 2004 and Tunisia in 2005 by the law No 50 of 2005.

- "The relevant framework" –other coasts outside the delimitation area to be affected the delimitation[146].

Figure 8. Overlapping EEZ's in the Mediterranean



Source: Istituto Idrografico Della Marina Genova 1992

[146] Malcolm D. Evans, *Relevant Circumstances and Maritime Delimitation*, Oxford Clarendon Press, 1989, p. 64-69.

International law requires States whose EEZs overlap to negotiate maritime boundary delimitation or settle the dispute by peaceful means, the fundamental obligation of the parties being to resolve their disputes[147] in order to achieve an equitable solution. If there is no agreement reached after a reasonable period, the parties shall apply the dispute settlement procedures of Part XV of UNCLOS, namely to refer the case to the ICJ or ITLOS (International Tribunal for the Law of the Sea) in accordance with Annex VI for settlement of disputes concerning the maritime delimitation[148]. The parties can choose from a number of options to have their dispute on the application of UNCLOS decided. Article 286 lays down that the dispute be submitted at the request of any party to the dispute to one of four mechanisms provided for in Article 287, which are:

1-the International Tribunal for the Law of the Sea;

2-the International Court of Justice;

3-Arbitral tribunal constituted in accordance with Annex VII of the convention:

4-A special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

All States have the right when they ratify UNCLOS or later to choose one or more of those mechanisms[149]. In case a parties have chosen different mechanisms than the arbitral tribunal constituted in accordance with Annex VII of the Convention will be applicable unless the parties agree on other[150].

Similar to the Romania-Ukraine case (Romania's application in 2004) when brought a case against Ukraine to the ICJ concerning establishment of a single maritime boundary for the EEZ and the continental shelf between the two States in the Black Sea as the 1997 agreement between them provided[151], on the basis of 24 rounds of

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[147] Article 279 UNCLOS. See also the obligation of peaceful dispute settlement set out in the U.N. Charter, article 2 para 3, and article 33 para 1.
[148] Article 74 Para 1 requires that the delimitation of overlapping maritime jurisdictions "shall be effected by agreement on basis of international law… in order to achieve an equitable solution".
[149] Article 287 para (1).
[150] Article 287 para (5).
[151] Subject to the fulfilment of certain conditions set out in article 4 (h) of the 1997 Agreement between the two States.

negotiations being held between the two States from 1998 until 2004 without any outcome. However, the clearest example of a settled EEZ maritime boundary is the 2003 agreement between Cyprus and Egypt. The two countries reached agreement after negotiation based on the relevant provisions of UNCLOS[152], and agreed to establish the boundary line between Cyprus's and Egypt's exclusive economic zones by the median line of which every point is equidistant from the nearest point on the baseline of each party[153].

The Mediterranean States give the best example of the co-operation amongst States bordering enclosed or semi-enclosed seas as set out in Article 123 of UNCLOS, which prescribes coordination of management, conservation, exploration and exploitation of the living resources of the sea[154], and implementation of their rights and duties with respect to the protection and preservation of the marine environment[155]. These States have adopted the largest number of international instruments to prevent, reduce, control pollution of the marine environment as per Article 123, and begin doing so even before UNCLOS. For example the1976 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean[156], the 1976 Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft as amended in 1995[157], The 1994 protocol for the protection of the Mediterranean sea against pollution resulting from exploration and exploitation of the continental shelf and the sea bed and its subsoil [158], and the 1995 protocol concerning specially protected areas and biological diversity in the Mediterranean which applies to all the maritime waters in the Mediterranean Sea "internal waters, historical bays, territorial seas, continental

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[152] See the preamble to the 2003 agreement.
[153] Article 1 (a), 2003 Agreement.
[154] Article 123 (a).
[155] Article 123 (b)
[156] Barcelona convention adopted in Barcelona, Spain on 16.02.1976, entered into force on 12.02.1978, and amended in Barcelona , Spain on 9-10.06.1995.
[157] Adopted in Barcelona, Spain on 16.02.1976, entered into force on 12.02.1978, and amended in Barcelona , Spain on 9-10.06.1995 under new title 'Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at sea.
[158] Adopted in Madrid, Spain on 14.10.1994, Libya has rifted by the law No 18 of 2003 and it is still in process of ratification in other States.

shelf , exclusive economic zone, exclusive fishery zone, fishery protection zone, high seas" irrespective of their legal status [159].

Mediterranean States have already established some of the most successful marine protected areas "MPAs" in the world. There are more than 150 marine and coastal protected areas in the Mediterranean, 50 of which are open water areas [160]. Furthermore the Mediterranean States adopted Mediterranean action plan (MAP) to assist the governments of the States to control marine pollution in all maritime zones and formulate the national legislation in this regard and several States were conformity with MAP requirements which have developed and renamed (MAP Phase II) by the conference plenipotentiaries in Barcelona in June 1995 as a reflection of recommendations of United Nation Conference on Environment and Development (Rio de Janeiro 1992).

Figure 9. Map of Marine and coastal protected areas in the Mediterranean Seas

Source: ETC/ MCE.

As a party to the Barcelona Convention 1976, Libya began recently being active and applying the regional convention's requirements and provisions. Libya also ratified a significant number of IMO conventions concerning marine pollution, especially from oil, as there are many oil facilities on the Libyan coastline. Moreover, Libya has

[159] Adopted in Barcelona, Spain on 9-10.06.1995 the protocol replaces the previous protocol concerning Mediterranean specially protected areas, Geneva, Switzerland, 03.04.1982.

recently expressed interest in joining the Barcelona a process, which was initiated in 1995. Progress has been made but there is still much work to be done.

Figure 10. Oil Industry in the Mediterranean

Source: RAC/REMPEC.

Based on the foregoing the Mediterranean States give clear example in co-operation of States bordering enclosed or semi-enclosed seas. This co-operation is not only for protection of the marine environment but also in the delimitation of maritime boundaries they have had a successful history as many maritime boundaries had been settled by agreements between States boarding the Mediterranean Sea, For example in the Continental Shelf Libya-Malta[161], Libya-Tunisia[162], Greece-Italy[163], Tunisia-Italy[164], Yugoslavia-Italy[165], Spain-Italy[166], and in Territorial sea France-Monaco, France-Italy[167], Yugoslavia-Italy[168], and in EEZ the agreement between Cyprus and Egypt.[169]

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[160] World Bank report 2005, Straategic Partnership for the Mediterranean Sea Large Marine Ecosystem, page 7.
[161] Agreement for Implementing the Judgement of ICJ signed on 10 Nov.1986 and entered into force on 14 Dec.1987.
[162] Agreement for Implementing the Judgement of ICJ, signed on 8 Aug.1988 and entered into force on Apr.1989
[163] Signed on 4 Mar.1977 and entered into force on 12 Nov.1980.
[164] Signed on 20 Aug. 1971 and entered into force on 6 Dec. 1978.
[165] Signed on 8 Jan.1968 and entered into force on 21 Jan. 1970.
[166] Signed on 19 Feb. 1974 and entered into force on 16. Nov 1978.
[167]Signed on 28 November 1986 and entered into force on 15 May.1989.
[168] Signed on 10 November 1975 and entered into force on 3 Apr.1977.
[169] Signed on 17 Feb.2003 and entered into force on 7 Jan.2004.

II. Relevant Libyan Legislation with respect to Maritime Zones

The Great Socialist Libyan Arab Jamahiriya is located in northern Africa, bordering the Mediterranean Sea, between Egypt and Tunisia and occupies an area of 1.759.540 sq km. Its coast stretches from Ras Ajdir (11° 35') in the west, to Ber Ramla (25° 09') in the east, extending a distance of approximately 1985 kilometres. This mean that Libya's coast makes up 36% of the coastal length of all Arab countries bordering the Mediterranean Sea.

Due to its position on the Mediterranean Sea, Libya has established a number of laws dealing with the sea around it.

a) Internal Waters and Sirte Declaration 1973

When a coastal State begins to consider the establishment of maritime zones to which it is entitled under UNCLOS, the first area it should closely study is its internal waters, which consists of lakes and rivers and their mouths, ports, harbours, and some of its gulfs and bays[170].

According to the Article 8 of UNCLOS, "internal waters" are "waters on the landward side of the baseline of the territorial sea" and in UNCLOS rules the bays of a single coastal State are considered internal water and the coastal State therefore has full jurisdiction over that water.

Article 10 paragraph 2 of UNCLOS defines the nature of a bay as " a well marked indentation whose penetration is in such proportion to the width of its mouths as to contain land-locked water and constitute more than a mere curvature of the coast".

The above-mentioned convention, as well as the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone, do not contain a regime for historic waters, and in both cases, the conventions state that they do not apply to "historic bays".

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[170] See the International Law of Sea, G. Knight and H. Chiu, page 115.

Paragraph 6 of Article 8 of UNCLOS clearly states that the provisions do not apply to so called "historic bays". So while this provides some evidence of the international community recognition of the basic concept of "historic bays", at the same time, no definition of such bays is provided. However, constraints on the authority of a coastal State in such cases are necessary since otherwise States could abuse designation of "historic bays" and treat large portions of waters as internal waters falling under their jurisdiction. At the same time, a lack of definition has not helped to clarify the situation, furthermore, since there have been no international adjudications on the issue, it has only been possible to establish criteria by basing it on information provided by text writers on the court decisions[171].

In the Louisiana boundary case of 1969 the Supreme Court of the United States held that " in order to establish that a body of water is an historic bay a coastal nation must have traditionally asserted and maintained dominion with the acquiescence of foreign nations, and that at least three factors are significant in the determination of historic bay status:

- The claiming nation must have exercised authority over the area;
- That exercise must have been continuous;
- Foreign States must have acquiesced in the exercise of authority[172].

On 19 October 1973, the Libyan Arab Jamahiriya claimed the Gulf of Sirte, which is 290 miles wide, as a historic bay, stating that this gulf formed part of its territory and that the baseline should therefore not be calculated from the coastline inside the Gulf but from the outermost points of land. This because the Gulf of Sirte is surrounded by Libyan territory to the west, east and south, Therefore according to this declaration the northern boundary of Libya's coast should be taken to be 32° 30′ N and the territorial sea would therefore start from this point. Moreover, this declaration also considered the Gulf of Sirte to be a historic bay and as such, the water of this bay should be considered Libyan internal water and therefore part of Libya's territory and falling completely under its jurisdiction. Furthermore, Libya has also claimed that this Gulf is

[171] See Jennings and Watts, Oppenheim's International Law, volume I, page 631.
[172]See United States v Louisiana 1969 (Louisiana boundary case) 394 U.S. at 75 and 23-24, n.27.

of strategic importance to it as it lies in the heart of Libya's territory. All the more so, since this Gulf is of historical, geographical, strategic and economic relevance and has always been accepted without questions by other States.

Libya claims it has a long standing right to jurisdiction over this Gulf since it has exercised jurisdiction over it for a long time without any other State disputing its right.

Since 1883, Libya has exercised its right to control sponge fishing in its territorial waters, including the Gulf of Sirte, and it continued to exercise such a right even after it became an Italian colony in 1911. A number of regulations were made by Italian authorities in Libya to control the exploitation of offshore resources [173] which remained in force after Libya became an independent State in 1951. For example, the Italian royal decree no 595/1940 forbade foreign ships and warships to approach the territorial waters of Libya and mentioned certain areas including the 12 N.M wide band along the coasts from the Tunisia border to the Egyptian border. This decree was not questioned by any other States, and the French and Tunisian governments fully accepted Libya's claim to this right as they did not protest.

In the 1982 case, the ICJ considered the above as evidence of Libya's right over the continental shelf between Libya and Tunisia. The ICJ pointed out that:

> *International law did not provide for a single 'regime' for 'historic waters' or 'historic bays' but only for a particular regime for each of concrete, recognized cases of 'historic waters' or 'historic bays*[174].

According to Professors Churchill and Lowe "International law has always recognised that bays have a close connection with land… and they should be considered as internal waters rather than as territorial sea"[175].

In short, Libya has been exercising its jurisdiction over the Gulf of Sirt for a long time. Only some States have expressed their reservations to Libya's above-mentioned claim. The reasons for these reservations were either political as in the case of the US, the UK, and Israel , or due to the fact that some of the countries such as Malta, Tunisia

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[173] The Italian royal ordinance of 1931 relating to sponge fishery.
[174] ICJ reports (1982), Para 100.
[175] See Churchill and Lowe, *The Law of the Sea*, (1999), p. 41.

and Italy have a coast bordering the Mediterranean Sea close to Libya. Similar reservations were made by the US and the UK when Italy asserted a claim over the Gulf of Taranto which, as with the Libyan claim, also reservations were made when Russia and Canada asserted claim over Peter the Great Bay and the Hudson Bay respectively[176].

In this regard, the US Navy has conducted many manoeuvres within the Gulf, but Libya had defended its rights in the Gulf, engaging in armed clashes with US.

As evidence in support of its claim, Libya has pointed out its navy controlled its territorial seas in the 18th and 19th centuries[177]. This is clearly demonstrated by the fact that its navy escorted any ships belonging to foreign States which pass through so as to protect them from pirates in the Mediterranean Sea. In the period between 1662 and 1816, Mediterranean as well as non-Mediterranean States had concluded at least 17 treaties of peace and commerce with the Pasha of Tripoli thus allowing foreign ships to navigate without hindrance by Libyan fleet[178]. The best examples of this include the treaty signed between Libya and the republic of Venice in 1764, which stated that the navy of the former would protect that of the latter as it passed through and the treaty signed between Libya and USA, according to which the latter bound itself to pay $50,000 annually to Libya so that its ships could pass along the Libyan coast. Furthermore Libya also claims as evidence its defence of the Gulf in history, such as the sea battle between the Libyan and American navies, in which Libya sized the American ship war 'Philadelphia'[179].

In conclusion, geographical considerations may lead to considering the Gulf as internal waters of Libya, since they are surrounded by Libyan land on three sides. The geographical shape and history therefore supports the Libyan legal claim that it is historical and internal water and part of Libya's territory.

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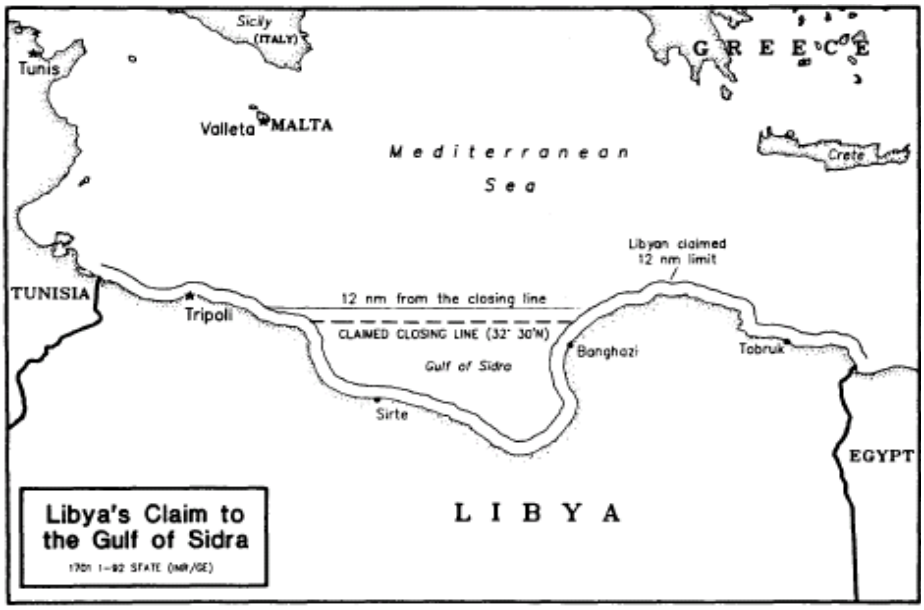
[176] Ibid. page 43, 44, and 45.
[177] Named by other nations as the fleet of the Barbary State of Tripoli.
[178] See e.g. H. Miller (ed), Treaties and other International Acts of United State of America ii (Government Printing Office, Washington DC, 1931), 349,529. also a series of treaties in BFSP,I (pt.l)(1812-14),710-33,iii(1815-16),513 .
[179] 31 October 1803, for more information see archive of the US Navy at http://www.history.navy.mil/photos/events/barb-war/burn-phl.htm

Figure 11. Libyan Claim over the Gulf of Sirte



Source: Limits in the Sea, No.112. U.S Department of States.

b) Territorial Waters

Concerning the territorial waters, the Libyan territorial waters were regulated by the law number 2 for 1959**.** This law established a 12 N.M territorial sea without specifying the baseline from which the breath of the Libyan territorial sea is measured.[180]

This law extended the Libyan territorial waters by six miles, as it was 6 miles before that.[181]

c) Fisheries Protection Zone

In February 2005, Libya claimed "an exclusive fishery zone" by the declaration of a Libyan fisheries protection zone in the Mediterranean sea through General People's Committee Decision no 37 of 2005 which states in Article 1 that :

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[180] The Official Gazette of the United Kingdom of Libya, Number 7, 31 March 1959.
[181] Note from Libyan Ministry for Foreign Affairs, Nov.1955. Text in UNLS (ST/LEG/SER.B/6)1957.

"A Libyan fisheries protection zone in the Mediterranean Sea is hereby declared in accordance with the text of the annexed declaration"[182].

Article 2 of decision No 37 prohibited fishing of any kind or by any means in that zone, except by permit from the competent authorities.

This law is enacted to preserve and exercise the rights in a zone of 62 N.M beyond its territorial sea.

The Libyan declaration was as follows:

"the area of the Mediterranean sea lying north of the boundaries of Libyan territorial waters and extending seaward for a distance of 62 nautical miles, measured from the territorial sea line, is a fisheries zone subject to Libyan sovereignty and jurisdiction in which fishing, be it domestic or foreign, of any kind, for any purpose and by any means is prohibited unless the competent Libyan authorities have issued a permit to the person or concerned to conduct fishing operation in such areas in accordance with the laws and regulations in force in the great Jamahiriya"[183].

The Libyan declaration is exclusively limited to the natural living resources and does not encompass non-living natural resources. Libya may wish to exercise its sovereign rights for the purpose of exploring and exploiting its natural resources over the continental shelf.

However, Libya considers that there is no need for any declaration or proclamation to exercise of its sovereign right to explore and exploit natural resources in the continental shelf. Article 77 Para 3 of UNCLOS states that: **"**the right of coastal State over the continental shelf do not depend on occupation, effective or national or any express proclamation"**.**

Such exercise is deemed to have been settled by the judgments of the ICJ in the 1982 case with Tunisia and the agreement between the two States for the implementation of

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[182] General People's Committee Decision No. 37 of 1373 from the death of the Prophet (2005 A.D.) concerning the declaration of a Libya fisheries protection zone in the Mediterranean Sea.
[183] Ibid, article 2.

that judgment which was signed on 8 August 1988 and entered into force on 11 April 1989 and the 1985 case with Malta together with the agreement signed on 10 November, 1986 between the two States to implement Article III of the special agreement and the judgement of the ICJ. The cases do not concern or exists in EEZ and become difficult to establishing the EEZ in the Mediterranean Sea, wherein only five States has declared their EEZ beyond their territorial sea[184]. In the so-called Anglo- Norwegian fisheries case 1951, the ICJ made the following statement:

"*The delimitation of sea areas has always an international aspect; it cannot be dependent merely upon the will of the coastal State as expressed in its municipal law. Although it is true that the act of delimitation is necessarily a unilateral act, because only the coastal State is competent to undertake it, the validity of the delimitation with regard to other States depends upon international law"*[185].

The Libyan declaration comes from its commitment to protect the marine environment and to preserve its marine living resources, and to guarantee sustainable exploitation to protect fisheries from illegal, unregulated and unreported fishing[186]. Moreover, in conformity with the Venice Ministerial Conference on Sustainable Development of fisheries in the Mediterranean Sea 2003 which declared the right of the Mediterranean States to establish protected marine fishing zones paragraph 10 states: "Against the background of closer cooperation between all States benefiting from the biological wealth of the Mediterranean marine environment, we consider that the creation of fisheries protection zones permits the improvement of conservation and control of fisheries and thus contributes to better resource management and to our common commitment to combat IUU (illegal, unreported and unregulated) fishing"[187].

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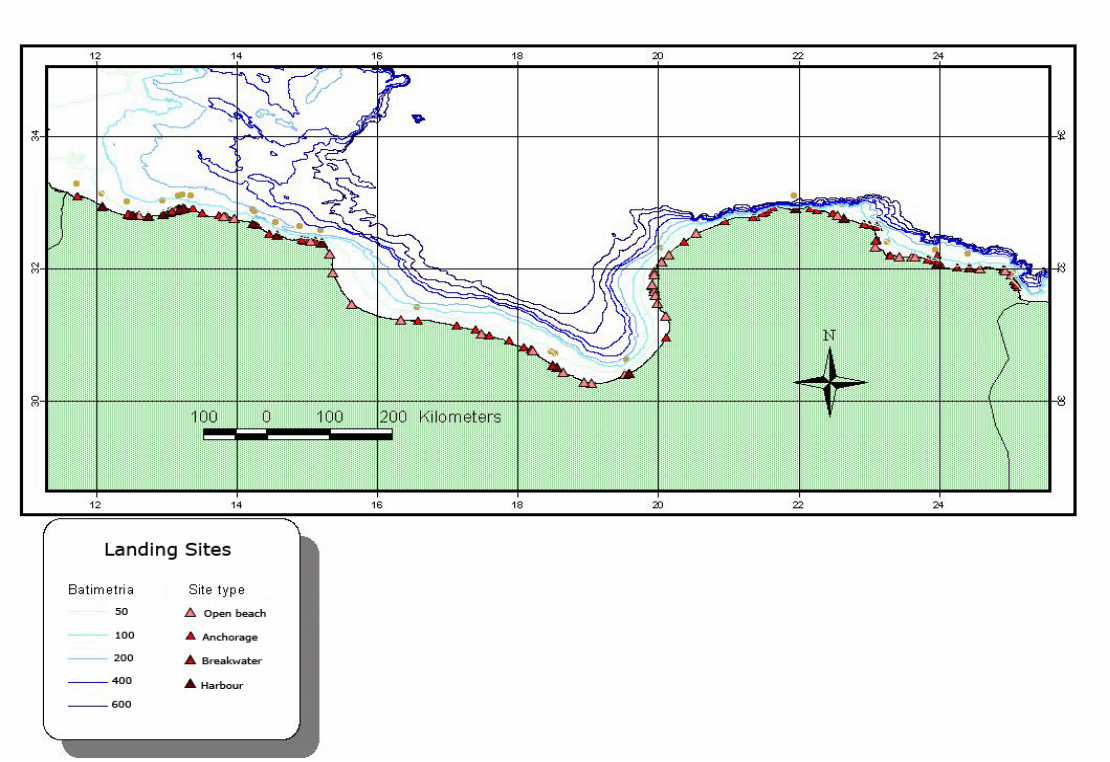
[184] Egypt, Cyprus, Morocco, Syria and Tunisia have claimed an EEZ in the Mediterranean Sea.
[185] Fisheries cases I CJ Report, 1951, 116,132. This principle was moreover applied in the Fisheries Jurisdiction case (UK-Iceland, Federal Republic of Germany-Iceland) 1974 ICJ report 3,22, Para 49, and in the 1982 case (Libya-Tunisia) ICJ report, (1982), 18, 67, para 87.
[186] Letter dated 29 March 2005 from the Charge d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General, U.N, A/60/68.
[187] Paragraph 10 of the Declaration of the Ministerial Conference for the Sustainable Development of Fisheries in the Mediterranean, held in Venice on 25 and 26 November 2003.

Libya must show that it is in a position to meet the practice recommended by the FAO Code of Conduct for Responsible Fishing[188], and has the capacity to monitor its fishing effort and catches and to gather statistics on the status of stocks and formulate recommendations on their sustainable exploitation. Like requirements are recognized by the International Commission for the Conservation of Atlantic Tunas (ICCAT) which Libya is member.

Figure 12. Libyan Marine Fisheries



Source: FAO.

According to the Food and Agriculture Organization of the United Nations Libya shows prospect for development of its fishing sector with stocks that could be further exploited[189]

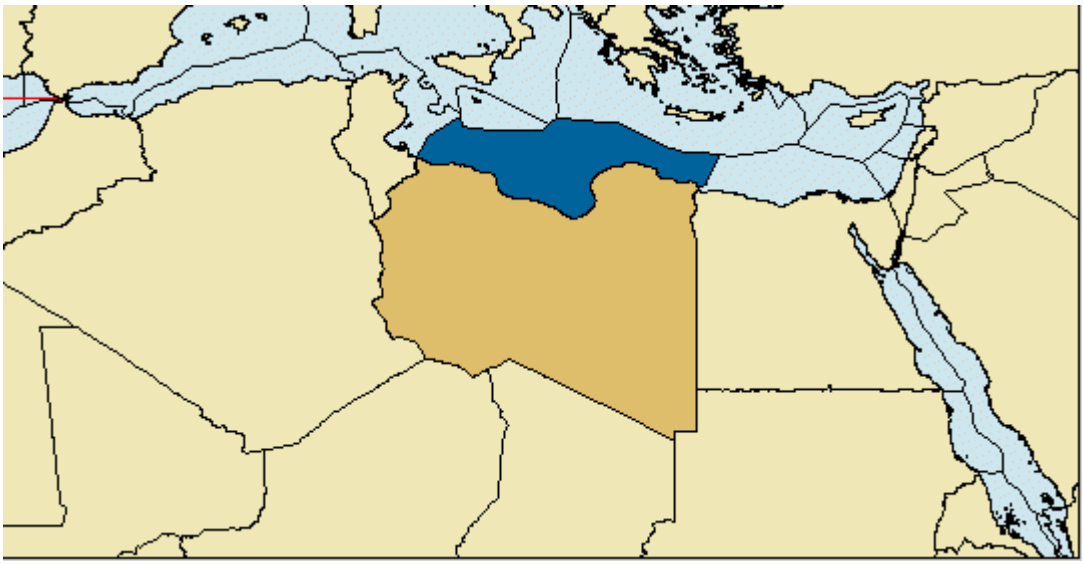
On the one hand, this zone will enable Libya to implement laws and regulations regarding the conservation and management of straddling fish stocks and highly migratory fish stocks and apply enforcement measures in this zone where no EEZ has been declared by Libya. In other words, the maritime zone extending seaward for a

[188] The FAO Code 1995, which is basic, guides for all other relevant fisheries instruments.
[189] Report FID/cp/Libya-April 2005.

distance of 62 N.M [190] , beyond Libyan territorial waters falls under Libya's jurisdiction and sovereignty and other States have specific competences.

On other hand, under international maritime law, Libya has a number of duties including the control and preservation of the natural resources as this zone is of importance not only for economic reasons (fisheries), but also for environmental, internal security and defence reasons. As for other States, the latter cannot carry out military exercises in or over this zone without Libya's consent[191]. As the enjoyment of freedoms of international communication in this zone excludes any non-peaceful uses or any activities which may affect the rights or interests of Libya such activities may include the carrying out of secret harmful tests and the use of low frequency active sonar (LFAS) which have now been developed by several developed States as these cause extremely loud low-frequency noise pollution and adversely impact on cetacean species as well as cause mass strandings of whales, whereas the long-term impacts are yet unknown[192].

Figure 13. Map of Delimitation of hypothetical Libyan EEZ



Source: Sea around Us Project.

For the purpose of delimiting this zone, the Libyan General People's Committee issued Decision No 105 of 2005 concerning the delimitation of the Libyan fisheries

[190] This limit of distance was chosen to avoid any overlap with maritime zones of any other States.
[191] See the declarations were made by Brazil, Pakistan, Malaysia, India, Uruguay and Cape Verde when ratify the UNCLOS in regarding to military exercises carry out in the EEZ.
[192] Green scissors campaign, U.S. public interest research group.www.greenscissors.org

protection zone in the Mediterranean Sea. In accordance with the coordinates set out in article 1 of the said Decision, the zone is delimited through 50 individual northern points, 61 southern individual points and three western points, "pending proclamation by Libya of an EEZ where it will exercise its sovereignty and jurisdiction in accordance with internal and international law"[193]. It is interesting to note that this is the first time that Libya officially expresses its interest to claim an EEZ and that it will continue organizing and regulating its maritime zones.

It is of course important that, based on these geographical individual points, any overlap with the maritime zones of neighbouring States is avoided as far as possible, especially vis-à-vis Greece and Italy whose maritime borders with Libya have not yet been determined. As for Malta and Tunisia, the preamble of the said Libyan Decision refers explicitly to the agreements between Libya and those two countries aiming at the implementation of the ICJ's decisions concerning the delimitation of the continental shelf.

d) Straight Baselines Decision for Measuring the Breadth of the Territorial Sea and Maritime Zones:

As Stated above, Libya's Law No 2 of 1959 concerning the territorial waters does not mention any baseline. Recently, however, and as further evidence of Libya's significant progress towards the organization of its maritime zones, Libya has adopted the system of straight baselines through the General People's Committee Decision No 104 of 2005 concerning straight baselines for the purpose of measuring the breadth of the territorial sea and the maritime zones of Libya.

In our opinion, this new measure by Libya is in conformity with international law and, specifically, article 7(1) of UNCLOS, which provides:

> *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*

[193] Article 1 General People's Committee Decision No 105 of 2005, dated 14 July 2005 (free translation).

straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.[194]

The original source of the system of straight baselines goes back to the claim of straight baselines made in 1869 by Norway as the first State to adopt such a system[195]. The said system was later incorporated in the Geneva Convention on the Territorial Sea, 1958 following the 1951 judgment of the ICJ in the Anglo-Norwegian fisheries case where the Court found the Norwegian system of straight baselines[196] to be in conformity with international law. In that case, the ICJ held:

The principle that the belt of territorial waters must follow the general direction of the coast makes it possible to fix certain criteria valid for any delimitation of territorial sea; those criteria will be elucidated later. The court will confine itself at this stage to noting that, in order to apply this principle, several States have deemed it necessary to follow the straight baselines method and that have not encountered objections of principle by other States. This method consists of selecting appropriate points on the low-water mark and drawing straight lines between them. This has been done, not only in the case of well-defined bays, but also in case of minor curvatures of the coastline where it was solely a question of giving a simpler form to the belt of territorial water"[197]

There is no doubt that the method of straight baselines is the most appropriate method to be applied to the Libyan coastline, which is indeed deeply indented and cut into. Moreover, a fringe of islands lies along the Libyan coastline as in the case of the Maltese islands[198], Crete[199], Sicily[200] and Lampedusa[201], which influence the extension of the Libyan maritime zones.

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[194] Article 4 Territorial Sea Convention 1958.
[195] See Churchill and Lowe, *The Law of the Sea*, 1999, p. 34.
[196] Norway's method of defining its EFZ (exclusive fishing zone).
[197] ICJ Report, 1951, pp.129 and 130.
[198] Republic of Malta, area in sq.km (315.59).
[199] Island of Greece, area in sq.km (8.332.00).
[200] Island of Italy, area in sq km (25, 708, 00).
[201] Long and narrow island of Italy, area in sq km (21).

Figure 14. Map of Islands Lying Along the Libyan Coastline

Source: Material specially prepared for presentation to the ICJ Libya–Malta case 1985.

This Libyan action should be followed by other steps pursuant to the requirements of article 16 of UNCLOS for giving publicity and depositing a copy of the charts or lists of geographical coordinates with the Secretary-General of the United Nations[202]. Furthermore, Libya should start negotiations to delimit the maritime boundaries to the west and east of the ICJ Malta/Libya line: to the west with Italy and Tunisia and to the east with Malta, Italy and Greece.

[202] Article 2 of the General People's Committee Decision No 104 of 2005 is to the same effect..

CONCLUSION

The clear outcome of this research points to the urgent necessity for the Libyan Arab Jamahiriya to ratify UNCLOS. Libya indeed signed UNCLOS in 1984, but it never ratified it. The ratification of UNCLOS will provide a strong foundation for Libya to continue organizing its maritime affairs. The ratification will also bring on Libya the benefits of UNCLOS institutions such as the International Tribunal for the Law of the Sea (ITLOS), the Commission on the Limits of the Continental Shelf, and the International Seabed Authority. This will increase the ability of Libya to participate in the decision-making on international maritime issues. It is time, in my view, for Libya to take this step.

Maritime delimitation law seems to have entered a new era based on accumulated State practice and the guidance of the provisions of UNCLOS, which has attracted wide acceptance by 149 State Parties. Furthermore, the numerous ICJ judgments on maritime boundary cases have established key principles and rules that States apply in delimitation agreements and that constitute binding jurisprudence for both the ICJ and ITLOS.

It is noteworthy that some Mediterranean States have recently undertaken national initiatives to extend their jurisdiction by claiming an EEZ (Cyprus, Egypt, Morocco, Syria and Tunisia). It is time for Libya to do the same and to proclaim a Libyan EEZ extending up to 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. Where parts of the said Libyan EEZ would overlap with parts of the EEZ of any other State having opposite coasts to Libya such as Italy, Greece and Malta, the delimitation between the Libyan EEZ and the EEZ's of other States should be effected by agreement in order to achieve an equitable result. In the event of the absence of an agreement, the Libyan EEZ should not extend beyond the median line. This is, in my opinion, the only option remaining for Libya.

Furthermore, Mediterranean States should continue strengthening ties of good neighbourliness and cooperating to delimit all maritime boundaries which are still not

agreed to, particularly as regards the EEZ's, based on the relevant provisions of UNCLOS and other international law rules. Mediterranean States should also coordinate amongst each other the management of the joint living and non-living resources of the Mediterranean Sea, including the conservation of fishing resources at a sustainable level. These resources should be managed for the benefit of all States concerned. The wider ratification and implementation of global and regional instruments for the protection of the marine environment in the region is also called for. Close cooperation is necessary to deal with all these challenges.

Libya's recent accession to and acceptance of a number of IMO conventions may be seen as a significant change in the country's maritime profile and its relations with the global maritime community. This should be followed by the establishment of mechanisms for the implementation of such conventions and for the sustained participation of Libya in the work of the IMO with a view to keeping in pace with future developments and taking advantage of programmes of technical cooperation set up for the benefit of IMO Member States.

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(C) INTERNET RESOURCES

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< http:// www.untreaty.un.org >

< http:// www.imo.org >

< http:// www.fao.org >

< http:// www.ici-cij.org >

< http:// www.unepmap

<http:// www.londonconvention.org >

<http:// www.seaaroundus.org >

< http:// www.greenscissors.org >

ANNEX 1

Libyan Declaration of Fisheries Protection Zone in the Mediterrananean Sea.[*]

[*] Source: UN

United Nations A/60/68

General Assembly

Distr.: General
1 April 2005

Original: English

Sixtieth session
Item 76 (b) of the preliminary list*
Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Letter dated 29 March 2005 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General

Emanating from the Libyan Arab Jamahiriya's commitment to protect the marine environment and to preserve its marine living resources, and in contributing to guarantee a rational and sustainable exploitation which seeks to protect fisheries from illegal, unorganized and undeclared fishing, and acting according to the Protocol concerning areas that enjoy special protection in the Mediterranean Sea as issued by the contracting parties of the Agreement to Protect the Mediterranean Sea from Pollution concluded in 1976, and in implementation of the Convention to Strengthen the Adherence of Fishing Vessels on the High Seas to the International Arrangement aimed at the preservation and management of marine living resources, which was agreed upon by the Food and Agriculture Organization of the United Nations in 1993, and in strengthening the Venice Ministerial Conference on sustainable development relating to fishing activities in the Mediterranean Sea in 2003 and the contents of the said declaration concerning the right of the Mediterranean Basin States to create protected marine fishing zones to preserve and supervise fisheries, and to contribute in assuring a better management of these resources and combating against illegal, unorganized and undeclared marine fishing activities, the Libyan Arab Jamahiriya hence has declared that the areas to the north of the Libyan territorial waters, which extend up to 62 nautical miles into the sea, starting from the territorial sea line, are a fishing area that falls under its jurisdiction and sovereignty in the Mediterranean Sea according to the provisions of the attached Declaration (see annex).

* A/60/50 and Corr.1

05-29385 (E) 050405 060405
0529385

While I wish to inform your excellency of this decision, I kindly request that it be circulated as a document of the General Assembly under item 76 (b) of the preliminary list.

(*Signed*) Ahmed A. **Own**
Chargé d'affaires a.i.

Annex to the letter dated 29 March 2005 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General

[Original: Arabic]

There is no democracy without
people's congresses

The Great Socialist People's Libyan Arab Jamahiriya
General People's Committee

General People's Committee Decision No. 37 of 1373 from the death of the Prophet (AD 2005) concerning the declaration of a Libyan fisheries protection zone in the Mediterranean Sea

The General People's Committee,

Having examined:

- The Penal Code;
- The Code of Criminal Procedure;
- Law No. 14 of AD 1989 concerning the organization of the exploitation of marine resources;
- Law No. 15 of the year 1371 from the death of the Prophet concerning the protection and improvement of the environment;
- Law No. 01 of the year 1369 from the death of the Prophet concerning people's congresses and people's committees and the related implementing regulation;
- The decisions of the General People's Committee at its second regular meeting of the year 1369 from the death of the Prophet;
- The decisions of the Secretariat of the General People's Committee at its sixth regular meeting of the year 1373 from the death of the Prophet,

Decides as follows:

Article 1

A Libyan fisheries protection zone in the Mediterranean Sea is hereby declared in accordance with the text of the annexed declaration.

Article 2

No fishing of any kind or by any means shall be permitted in the zone referred to in article 1 except by permit from the competent authorities. A decision shall be adopted by the Secretariat of the General People's Committee defining the competent authority and the terms of the permit and related controls. In the event of any violation thereof, the perpetrators shall be liable to the penalties provided for in the legislation in force.

Article 3

The present decision shall enter into force as from the date of its adoption and the competent authorities shall be responsible for its enforcement. It shall be published in the official gazette.

(*Signed*) [Illegible]
General People's Committee (Decisions)
Great Socialist People's Libyan Arab Jamahiriya

Adopted on 16 Muharram, corresponding to 24/02 of the year 1373 from the death of the Prophet (AD 2005).

(Department of Legal Affairs)

Declaration of a Libyan Fisheries Protection Zone in the Mediterranean Sea

The Great Socialist People's Libyan Arab Jamahiriya,

Considering its international obligations in the area of protection of the marine environment and preservation of the living resources of the Mediterranean Sea,

Desiring to help ensure reasonable and sustainable exploitation within the framework of rational management of those resources,

Seeking to protect marine fisheries against illegal, unregulated and unreported fishing,

Pursuant to the Protocol Concerning Mediterranean Specially Protected Areas, adopted by the parties to the Convention for the Protection of the Mediterranean Sea against Pollution concluded in February AD 1976, and in particular the following provision of article 1 of the Protocol: "The Contracting Parties to this Protocol ... shall take all appropriate measures with a view to protecting those marine areas which are important for the safeguard of the natural resources and natural sites of the Mediterranean Sea Area",

Pursuant also to the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted on 24 November AD 1993 by the Conference of the Food and Agriculture Organization of the United Nations (FAO) at the twenty-seventh session, by its resolution 15/93, and in particular the provisions of article 3 thereof concerning the responsibility of the flag State to "take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures",

Pursuant further to the Code of Conduct for Responsible Fishing, adopted on 31 October AD 1995 by the FAO Conference at its twenty-eighth session, by its resolution 4/95, which lays down the principles and standards to be applied for the conservation, management and development of all resources and provides the necessary framework for national and international efforts aimed at guaranteeing sustainable exploitation of living marine resources, in harmony with the environment, especially the provision of paragraph 7.1.1. of article 7, "Fisheries management", which reads: "... all those engaged in fisheries management should, through an appropriate policy, legal and institutional framework, adopt measures for the long-term conservation and sustainable use of fisheries resources. Conservation and management measures, whether at local, national, subregional or regional levels, should be based on the best scientific evidence available and be designed to ensure the long-term sustainability of fishery resources at levels which promote the objective of their optimum utilization and maintain their availability for present and future generations; short-term considerations should not compromise these objectives",

With a view to promoting the Declaration of the Ministerial Conference for the Sustainable Development of Fisheries in the Mediterranean, held in Venice on 25 and 26 November 2003, paragraph 10 of which states: "we consider that the creation of fisheries protection zones permits the improvement of conservation and

control of fisheries and thus contributes to better resource management and to our common commitment to combat IUU [illegal, unreported and unregulated] fishing",

Declares:

I. That the area of the Mediterranean Sea lying north of the boundaries of Libyan territorial waters and extending seaward for a distance of 62 nautical miles, measured from the territorial sea line, is a fisheries zone subject to Libyan sovereignty and jurisdiction in which fishing, be it domestic or foreign, of any kind, for any purpose and by any means is prohibited unless the competent Libyan authorities have issued a permit to the person or persons concerned to conduct fishing operations in such areas in accordance with the laws and regulations in force in the Great Jamahiriya.

II. The present Declaration shall enter into force as from the date of its issuance and shall be deposited with the United Nations. It shall be published in all the media both locally and internationally.

(*Signed*) [Illegible]
General People's Committee
Decisions
Great Socialist People's Libyan Arab Jamahiriya

Issued in Tripoli on 16 Muharram the year 1373 from the death of the Prophet (24 February 2005).

ANNEX 2

Status of signature and ratification of the IMO instruments by the Libyan Arab Jamahiriya as at June 2006[*]

[*] Source: Treaty and Rules Section, Sub-division for Legal Affairs, IMO.

Ratification of, or Accession to, Conventions

Name of Country: Libyan Arab Jamahiriy

Convention	Deposit Date	Date of Country Entry into Force	Type	Denunciation Date	Notes
	-				
AFS 2001	-				
BUNKERS 2001	-				
BWM 2004	-				
CLC 69	28/04/2005	27/07/2005	Accession		
CLC PROT 76	-				
CLC PROT 92	-				
COLREG 72	28/04/2005	28/04/2005	Accession		
CSC 72	-				
CSC AMEND-93	-				
FAL 65	28/04/2005	27/06/2005	Accession		
FUND 71	-				
FUND PROT 1976	-				
FUND PROT 1992	-				
FUND PROT 2000	-				
FUND PROT 2003	-				
HNS 96	-				
IMO AMEND-91	-				
IMO AMEND-93	04/11/1998		Acceptance		
IMO CONVENTION	16/02/1970	16/02/1970	Acceptance		
IMSAT AMEND-94	-				
IMSAT AMEND-98	-				
INMARSAT C 76	29/01/1999	29/01/1999	Accession		
INMARSAT OA 76	29/01/1999	29/01/1999	Signature		
INTERVENTION 69	-				
INTERVENTION PROT 73	-				
LC 72	22/11/1976	22/12/1976			
LC AMEND-78	-				
LC PROT 96	-				
LL 66	12/08/1974	12/11/1974	Accession		
LL PROT 88	-				
LLMC 76	-				
LLMC PROT 96	-				
MARPOL ANNEX I/II	28/04/2005	28/07/2005	Accession		
MARPOL ANNEX III	28/04/2005	28/07/2005	Acceptance		
MARPOL ANNEX IV	28/04/2005	28/07/2005	Acceptance		
MARPOL ANNEX V	28/04/2005	28/07/2005	Acceptance		
MARPOL ANNEX VI	-				
NUCLEAR 71	-				
OPRC 90	18/06/2004	18/09/2004	Accession		
OPRC/HNS 2000	-				
PAL 74	-				

Ratification of, or Accession to, Conventions

Name of Country: Libyan Arab Jamahiriy

Convention	Deposit Date	Date of Country Entry into Force	Type	Denunciation Date	Notes
PAL PROT 1976	-				
PAL PROT 1990	-				
PAL PROT 2002	-				
SALVAGE 89	-				
SAR 79	28/04/2005	28/05/2005	Accession		
SFV PROT 93	-				
SOLAS 74	02/07/1981	02/10/1981	Accession		
SOLAS AGR 96	-				
SOLAS PROT 78	02/07/1981	02/10/1981	Accession		
SOLAS PROT 88	-				
SPACE STP 73	-				
STCW 78	10/08/1983	28/04/1984	Accession		
STCW-F 95	-				
STP 71	-				
SUA 1988	08/08/2002	06/11/2002	Accession		
SUA 2005	-				
SUA PROT 1988	08/08/2002	06/11/2002	Accession		
SUA PROT 2005	-				
TONNAGE 69	28/04/2005	28/07/2005	Accession		

Ratification of, or Accession to, Conventions

Name of Country: Libyan Arab Jamahiriy

Convention	Deposit Date	Date of Country Entry into Force	Type	Denunciation Date	Notes
PAL PROT 1976	-				
PAL PROT 1990	-				
PAL PROT 2002	-				
SALVAGE 89	-				
SAR 79	28/04/2005	28/05/2005	Accession		
SFV PROT 93	-				
SOLAS 74	02/07/1981	02/10/1981	Accession		
SOLAS AGR 96	-				
SOLAS PROT 78	02/07/1981	02/10/1981	Accession		
SOLAS PROT 88	-				
SPACE STP 73	-				
STCW 78	10/08/1983	28/04/1984	Accession		
STCW-F 95	-				
STP 71	-				
SUA 1988	08/08/2002	06/11/2002	Accession		
SUA 2005	-				
SUA PROT 1988	08/08/2002	06/11/2002	Accession		
SUA PROT 2005	-				
TONNAGE 69	28/04/2005	28/07/2005	Accession		

ANNEX 3

IMO Membership and Signatories or Parties to UNCLOS and/or to the Agreement relating to the Implementation of Part XI of UNCLOS[†].

[†] Source: IMO document FSI 14/INF.7, dated 21 April 2006, Annex, page 5.

IMO Membership and Signatories or Parties to UNCLOS and/or to the Agreement relating to the implementation of Part XI of the Convention

IMO Members being Parties to UNCLOS			
ALBANIA	FINLAND	MEXICO	SOMALIA*
ALGERIA	FRANCE	MONACO	SOUTH AFRICA
ANGOLA*	GABON	MONGOLIA	SPAIN
ANTIGUA AND BARBUDA*	GAMBIA*	MOZAMBIQUE	SRI LANKA
ARGENTINA	GEORGIA	MYANMAR	SUDAN
AUSTRALIA	GERMANY	NAMIBIA	SURINAME
AUSTRIA	GHANA*	NEPAL	SWEDEN
BAHAMAS	GREECE	NETHERLANDS	THE FORMER YUGOSLAV REP. OF MACEDONIA
BAHRAIN*	GRENADA	NEW ZEALAND	TOGO
BANGLADESH	GUATEMALA	NICARAGUA	TONGA
BARBADOS	GUINEA	NIGERIA	TRINIDAD AND TOBAGO
BELGIUM	GUINEA-BISSAU*	NORWAY	TUNISIA
BELIZE	GUYANA*	OMAN	TUVALU
BENIN	HAITI	PAKISTAN	UKRAINE
BOLIVIA	HONDURAS	PANAMA	UNITED KINGDOM
BOSNIA AND HERZEGOVINA*	HUNGARY	PAPUA NEW GUINEA	UNITED REPUBLIC OF TANZANIA
BRAZIL	ICELAND	PARAGUAY	URUGUAY
BRUNEI DARUSSALAM	INDIA	PHILIPPINES	VANUATU
BULGARIA	INDONESIA	POLAND	VIET NAM*
CAMEROON	IRAK*	PORTUGAL	YEMEN*
CANADA	IRELAND	QATAR	ZIMBABWE
CAPE VERDE	ITALY	REP. OF KOREA	
CHILE	JAMAICA	ROMANIA	
CHINA	JAPAN	RUSSIAN FEDERATION	
COMOROS*	JORDAN	SAINT KITTS AND NEVIS*	
COSTA RICA	KENYA	SAINT LUCIA*	
CÔTE D'IVOIRE	KIRIBATI	SAINT VINCENT AND THE GRENADINES*	
CROATIA	KUWAIT	SAMOA	
CUBA	LATVIA	SAO TOME & PRINCIPE*	
CYPRUS	LEBANON	SAUDI ARABIA	
CZECH REPUBLIC	LITHUANIA	SENEGAL	
DEM. REP. OF THE CONGO*	LUXEMBOURG	SERBIA & MONTENEGRO	
DENMARK	MADAGASCAR	SEYCHELLES	
DJIBOUTI*	MALAYSIA	SIERRA LEONE	
DOMINICA*	MALDIVES	SINGAPORE	
EGYPT	MALTA	SLOVAKIA	
EQUATORIAL GUINEA	MARSHALL ISLANDS*	SLOVENIA	
ESTONIA	MAURITANIA	SOLOMON ISLANDS	
FIJI*	MAURITIUS		

IMO Members being Signatories to UNCLOS		IMO Members being neither Signatories nor Parties to UNCLOS	
CAMBODIA*	LIBERIA*	AZERBAIJAN	SYRIAN ARAB REPUBLIC
COLOMBIA*	LIBYAN ARAB JAMAHIRIYA*	ECUADOR	TIMOR-LESTE
CONGO*	MALAWI*	ERITREA	TURKEY
DEM. PEOPLE'S REP. OF KOREA*	MOROCCO	ISRAEL*	TURKMENISTAN
DOMINICAN REPUBLIC*	SWITZERLAND	KAZAKHSTAN	UNITED STATES (Signatory to the Agreement relating to the implementation of Part XI of the Convention)
EL SALVADOR*	THAILAND*	PERU	
ETHIOPIA*	UNITED ARAB EMIRATES*	REPUBLIC OF MOLDOVA	
IRAN (ISLAMIC REP. OF)*		SAN MARINO	VENEZUELA

Parties to UNCLOS not being IMO Members		Signatories to UNCLOS not being IMO Members	
ARMENIA	PALAU	AFGHANISTAN*	LIECHTENSTEIN*
BOTSWANA	UGANDA	BELARUS*	NIGER*
COOK ISLANDS	ZAMBIA	BHUTAN*	NIUE*
EUROPEAN COMMUNITY		BURKINA FASO	RWANDA*
LAO PEOPLE'S DEM. REPUBLIC		BURUNDI*	SWAZILAND
MALI*		CENTRAL AFRICAN REP.*	
MICRONESIA (FED. STATES OF)		CHAD*	
NAURU		LESOTHO*	

Source: Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations (6/04/2006)

* Parties to UNCLOS which are neither Parties nor Signatories to the Agreement relating to the implementation of Part XI of the Convention, or Signatories to UNCLOS which are neither Parties nor Signatories to the Agreement relating to the implementation of Part XI of the Convention

ANNEX 4

Status of signatures and ratifications of the Barcelona convention and its protocols (Mediterranean region instruments)[†].

[†] Source: UNEP/MAP

	Barcelona Convention 1/			Dumping Protocol 2/			Emergency Protocol 3/		New Emergency Protocol 4/	
Contracting Parties	**Signature**	**Ratification**	**Acceptance of Amendments**	**Signature**	**Ratification**	**Acceptance of Amendments**	**Signature**	**Ratification**	**Signature**	**Ratification**
Albania	-	30.05.90/AC	26.07.01	-	30.05.90/AC	26.07.01	-	30.05.90/AC	-	-
Algeria	-	16.02.81/AC	09.06-04	-	16.03.81/AC	-	-	16.03.81/AC	25.01.02	-
Bosnia & Herzegovina	-	01.03.92/SUC	-	-	01.03.92/SUC	-	-	01.03.92/SUC	-	-
Croatia	-	08.10.91/SUC	03.05.99	-	08.10.91/SUC	03.05.99	-	08.10.91/SUC	25.01.02	01.10.03
Cyprus	16.02.76	19.11.79	15.10.01	16.02.76	19.11.79	18.0703	16.02.76	19.11.79	25.01.02	-
European Commission	13.09.76	16.03.78/AP	12.11.99	13.09.76	16.03.78/AP	12.11.99	13.09.76	12.08.81/AP	25.01.02	25.06.04
Egypt	16.02.76	24.08.78/AP	11.02.00	16.02.76	24.08.78/AP	11.02.00	16.02.76	24.08.78/AC	-	-
France	16.02.76	11.03.78/AP	16.04.01	16.02.76	11.03.78/AP	16.04.01	16.02.76	11.03.78/AP	25.01.02	02.07.03
Greece	16.02.76	03.01.79	10.03.03	11.02.77	03.01.79	-	16.02.76	03.01.79	25.01.02	-
Israel	16.02.76	03.03.78	-	16.02.76	01.03.84	-	16.02.76	03.03.78	22.01.03	-
Italy	16.02.76	03.02.79	07.09.99	16.02.76	03.02.79	07.09.99	16.02.76	03.02.79	25.01.02	-
Lebanon	16.02.76	08.11.77/AC	-	16.02.76	08.11.77/AC	-	16.02.76	08.11.77/AC	-	-
Libya	31.01.77	31.01.79	-	31.01.77	31.01.79	-	31.01.77	31.01.79	25.01.02	-
Malta	16.02.76	30.12.77	28.10.99	16.02.76	30.12.77	28.10.99	16.02.76	30.12.77	25.01.02	18.02.03
Monaco	16.02.76	20.09.77	11.04.97	16.02.76	20.09.77	11.04.97	16.02.76	20.09.77	25.01.02	03.04.02
Morocco	16.02.76	15.01.80	07.12.2004	16.02.76	15.01.80	05.12.97	16.02.76	15.01.80	25.01.02	-
Serbia & Montenegro*	-	16.07.2002	-	-	16.07.2002	-	-	16.07.2002	-	-
Slovenia	-	15.03.94/AC	08.01.03	-	15.03.94/AC	08.01.03	-	15.03.94/AC	25.01.02	16.02.04
Spain	16.02.76	17.12.76	17.02.99	16.02.76	17.12.76	17.02.99	16.02.76	17.12.76	25.01.02	-
Syria	-	26.12.78/AC	10.10.03	-	26.12.78/AC	-	-	26.12.78/AC	25.01.02	-
Tunisia	25.05.76	30.07.77	01.06.98	25.05.76	30.07.77	01.06.98	25.05.76	30.07.77	25.01.02	-
Turkey	16.02.76	06.04.81	18.09.02	16.02.76	06.04.81	18.09.02	16.02.76	06.04.81	-	04.06.03

Accession = AC Approval = AP Succession = SUC

	Land-Based Sources Protocol 5/			Specially Protected Areas Protocol 6/		SPA & Biodiversity Protocol 7/		Offshore Protocol 8/		Hazardous Wastes Protocol 9/	
Contracting Parties	**Signature**	**Ratification**	**Acceptance of**	**Signature**	**Ratification**	**Signature**	**Ratification**	**Signature**	**Ratification**	**Signature**	**Ratification**

* F.R. of Yugoslavia notified on 16 July 2002 its succession to the Convention and the Protocols as above. The date of succession is 27.04.92. On 20 March 2003, UNEP Regional Office for Europe was notified that the newly reorganized State Union of Serbia and Montenegro had become party by succession to the Barcelona Convention.

			Amendments								
Albania	-	30.05.90/AC	26.07.01	-	30.05.90/AC	10.06.95	26.07.01	-	26.07.01	-	26.07.01
Algeria	-	02.05.83/AC	-	-	16.05.85/AC	10.06.95	-	-	-	01.10.96	-
Bosnia & Herzegovina	-	22.10.94/SUC	-	-	22.10.94/SUC	-	-	-	-	-	-
Croatia	-	12.06.92/SUC	-	-	12.06.92/SUC	10.06.95	12.04.02	14.10.94	-	-	-
Cyprus	17.05.80	28.06.88	12.10.01	-	28.06.88/AC	10.06.95	15.10.01	14.10.94	15.10.01	-	-
European Commission	17.05.80	07.10.83/AP	12.11.99	30.03.83	30.06.84/AP	10.06.95	12.11.99	-	-	-	-
Egypt	-	18.05.83/AC	-	16.02.83	08.07.83	10.06.95	11.02.00	-	-	01.10.96	-
France	17.05.80	13.07.82/AP	16.04.01	03.04.82	02.09.86/AP	10.06.95	16.04.01	-	-	-	-
Greece	17.05.80	26.01.87	10.03.03	03.04.82	26.01.87	10.06.95	-	14.10.94	-	01.10.96	-
Israel	17.05.80	21.02.91	-	03.04.82	28.10.87	10.06.95	-	14.10.94	-	-	-
Italy	17.05.80	04.07.85	07.09.99	03.04.82	04.07.85	10.06.95	07.09.99	14.10.94	-	01.10.96	-
Lebanon	17.05.80	27.12.94	-	-	27.12.94/AC	-	-	-	-	-	-
Libya	17.05.80	06.06.89/AP	-	-	06.06.89/AC	10.06.95	-	-	-	01.10.96	-
Malta	17.05.80	02.03.89	28.10.99	03.04.82	11.01.88	10.06.95	28.10.99	14.10.94	-	01.10.96	28.10.99
Monaco	17.05.80	12.01.83	26.11.96	03.04.82	29.05.89	10.06.95	03.06.97	14.10.94	-	01.10.96	-
Morocco	17.05.80	09.02.87	02.10.96	02.04.83	22.06.90	10.06.95	-	-	01.07.99	20.03.97	01.07.99
Serbia & Montenegro*	-	16.07.2002	-	-	16.07.2002	-	-	-	-	-	-
Slovenia	-	16.09.93/AC	08.01.03	-	16.09.93/AC	-	08.01.03	10.10.95	-	-	-
Spain	17.05.80	06.06.84	17.02.99	03.04.82	22.12.87	10.06.95	23.12.98	14.10.94	-	01.10.96	-
Syria	-	01.12.93/AC	-	-	11.09.92/AC	-	10.10.03	20.09.95	-	-	-
Tunisia	17.05.80	29.10.81	01.06.98	03.04.82	26.05.83	10.06.95	01.06.98	14.10.94	01.06.98	01.10.96	01.06.98
Turkey	-	21.02.83/AC	18.05.02	-	06.11.86/AC	10.06.95	18.09.02	-	-	01.10.96	03.04.04

Accession = AC Approval = AP Succession = SUC

* F.R. of Yugoslavia notified on 16 July 2002 its succession to the Convention and the Protocols as above. The date of succession is 27.04.92. On 20 March 2003, UNEP Regional Office for Europe was notified that the newly reorganized State Union of Serbia and Montenegro had become party by succession to the Barcelona Convention.

1/ Convention for the Protection of the Mediterranean Sea against Pollution
Adoption (Barcelona): 16 February 1976
Entry into force*: 12 February 1978
Status: Signatories: 15, Parties: 22

The 1995 Amendments (Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean)
Adoption (Barcelona)10 June 1995
Entry into force 9 July 2004
Status: Parties to the Amendments: 16

2/ The Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (Dumping Protocol)
Adoption (Barcelona): 16 February 1976
Entry into force*: 12 February 1978
Status: Signatories: 15, Parties: 22

The 1995 Amendments (The Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea)
Adoption (Barcelona)10 June 1995
Not Yet in Force
Status: Parties to the Amendments: 14

3/ The Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency (Emergency Protocol)
Adoption (Barcelona): 16 February 1976
Entry into force*: 12 February 1978
Status: Signatories: 15, Parties: 22

4/ The Protocol concerning Co-operation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Prevention and Emergency Protocol)
Adoption (Malta): 25 January 2002
Entry into force*: 17 March 2004, replacing the 1976 Emergency Protocol in accordance with Article 25(2)
Status: Signatories: 16, Parties: 7

5/ The Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources (LBS Protocol)
Adoption (Athens): 17 May 1980
Entry into force*: 17 June 1983
Status: Signatories: 22, Parties: 22

The 1996 Amendments (The Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources and Activities (LBS Protocol)
Adoption (Syracuse):7 March 1996
Not Yet in Force
Status: Parties to the Amendments: 13

6/ The Protocol Concerning Mediterranean Specially Protected Areas (SPA Protocol)
Adoption (Geneva): 3 April 1982
Entry into force*: 23 March 1986
Status: Signatories: 11, Parties: 22

7/ The Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean (SPA & Biodiversity Protocol)
Adoption (Barcelona): 10 June 1995
Entry into force*: 12 December 1999, replacing the 1980 SPA Protocol in accordance with Article 32
Status: Signatories: 17, Parties: 14

8/ Protocol for the Protection of the Mediterranean Sea Against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (Offshore Protocol)
Adoption (Madrid): 14 October 1994
Not Yet in Force
Status: Signatories: 11, Parties: 4

9/ Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (Hazardous Wastes Protocol)
Adoption (Izmir): 1 October 1996
Not Yet in Force
Status: Signatories: 11, Parties: 5

ANNEX 5

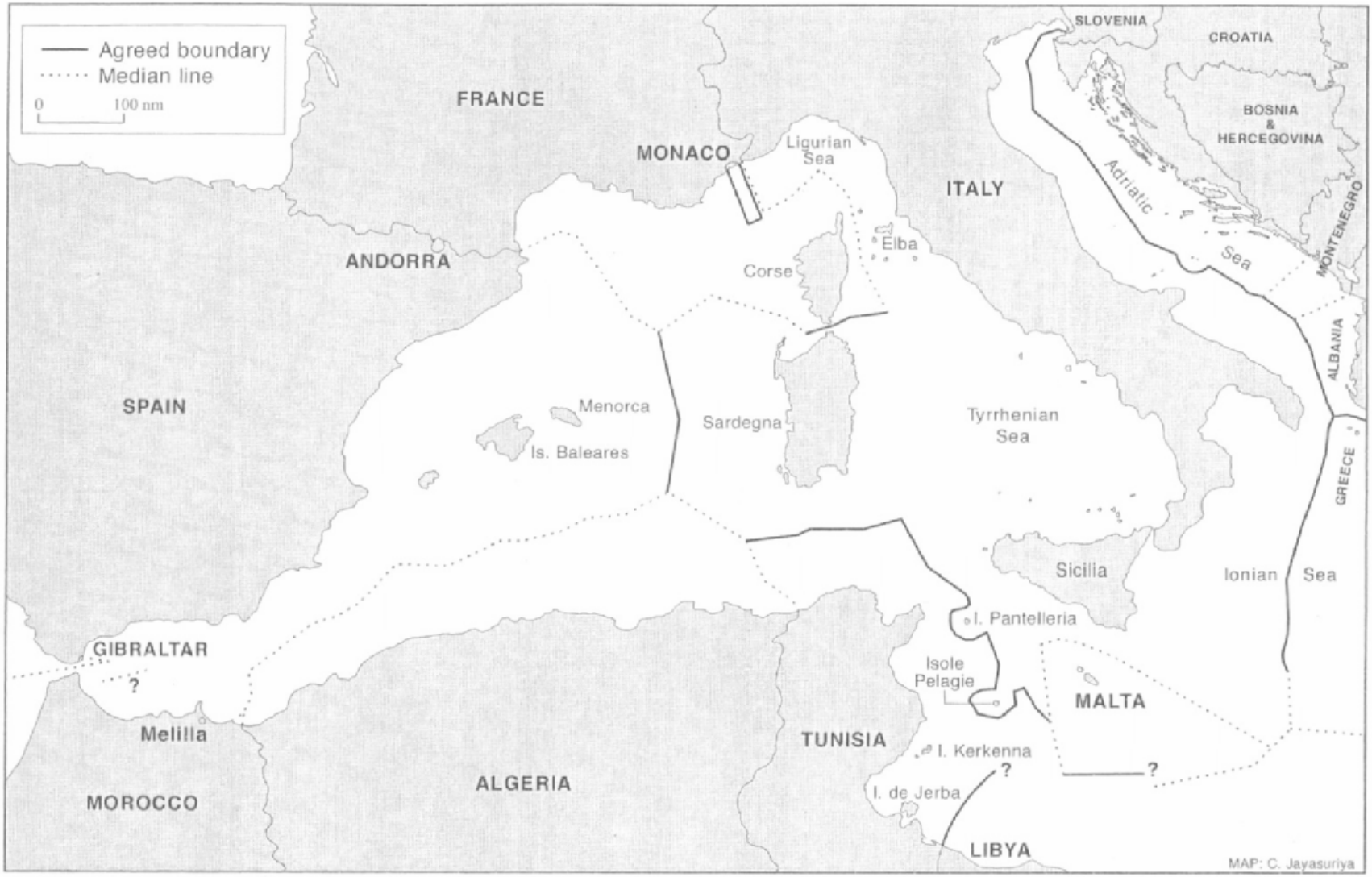
Maps of the Maritime Boundaries in the Mediterranean Sea

The western Mediterranean Sea[‡]

The eastern Mediterranean Sea

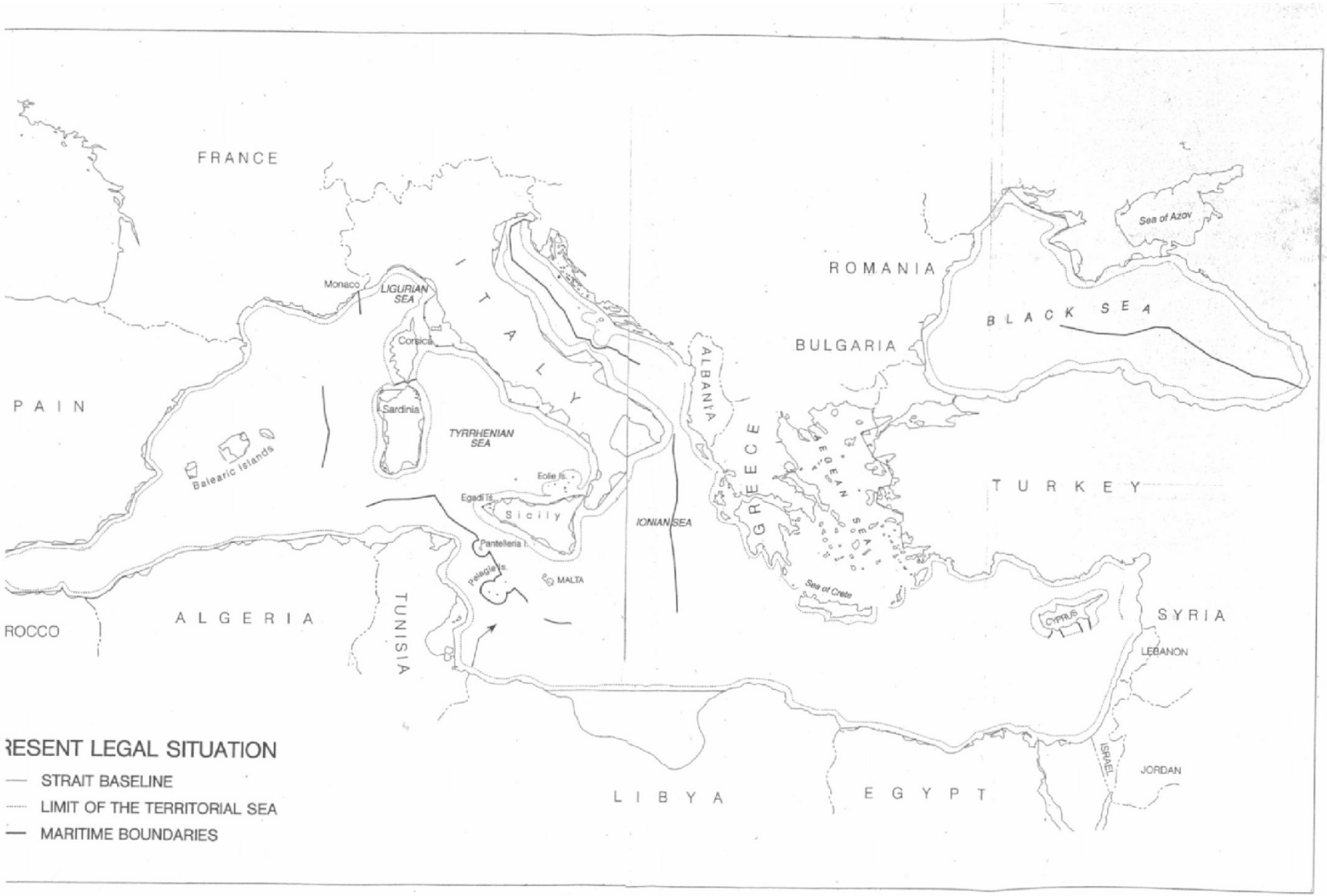
Present Legal Situation

[‡] Source: Victor Prescott and Clive Schofield, the Maritime Political Boundaries of the World (The Hague: Martinus Nijhoff Puplishers, 2004) at 614 and 616.



16.3 The western Mediterranean Sea

16.1 The eastern Mediterranean Sea


FRANCE
Monaco
LIGURIAN SEA
Corsica
Sardinia
TYRRHENIAN SEA
Balearic Islands
Eolie Is.
Egadi Is.
Sicily
Pantelleria I.
Pelagie Is.
MALTA
IONIAN SEA
ALBANIA
GREECE
AEGEAN SEA
Sea of Crete
ROMANIA
Sea of Azov
BLACK SEA
BULGARIA
TURKEY
CYPRUS
SYRIA
LEBANON
ISRAEL
JORDAN
EGYPT
LIBYA
TUNISIA
ALGERIA
ROCCO
RESENT LEGAL SITUATION
STRAIT BASELINE
LIMIT OF THE TERRITORIAL SEA
MARITIME BOUNDARIES

ANNEX 6

Part V of the United Nations Convention on the Law of the Sea 1982

PART V

EXCLUSIVE ECONOMIC ZONE

III.

- **Article 55 Specific legal regime of the exclusive economic zone**
- **Article 56 Rights, jurisdiction and duties of the coastal State in the exclusive economic zone**
- **Article 57 Breadth of the exclusive economic zone**
- **Article 58 Rights and duties of other States in the exclusive economic zone**
- **Article 59 Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the exclusive economic zone**
- **Article 60 Artificial islands, installations and structures in the exclusive economic zone**
- **Article 61 Conservation of the living resources**
- **Article 62 Utilization of the living resources**
- **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**
- **Article 64 Highly migratory species**
- **Article 65 Marine mammals**
- **Article 66 Anadromous stocks**
- **Article 67 Catadromous species**
- **Article 68 Sedentary species**
- **Article 69 Right of land-locked States**
- **Article 70 Right of geographically disadvantaged States**
- **Article 71 Non-applicability of articles 69 and 70**
- **Article 72 Restrictions on transfer of rights**
- **Article 73 Enforcement of laws and regulations of the coastal State**
- **Article 74 Delimitation of the exclusive economic zone between States with opposite or adjacent coasts**
- **Article 75 Charts and lists of geographical co- ordinates**

Article55

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.

Article56

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.

Article57

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.

Article58

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.

Article59

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.

Article60

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.

Article62

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.

Article64

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.

Article65

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.

Article66

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.

Article67

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.

Article68

Sedentary species

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

Article69

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.

Article70

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.

Article71

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.

Article72

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.

Article73

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.

Article74

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.

Article75

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.