

Decree No. 85/185 of 6 February 1985
regulating the Passage of Foreign Ships through French Territorial Waters

Article 1

Foreign ships shall enjoy the right of passage through French territorial waters according to the rules of innocent passage as defined by this Decree.

Article 2

Passage means navigation through the territorial waters for the purpose of:

- (a) traversing them without entering internal waters or calling at a roadstead or port facility outside internal waters;
- (b) proceeding to or from internal waters or to and from a call at such roadstead or port facility.

Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Article 3

Passage is innocent so long as it is not prejudicial to the peace, good order or security of the State.

Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the State if in the territorial waters it engages in any activity not having a direct bearing on passage, including:

1. Any threat or use of force against the sovereignty, territorial integrity or political independence of the State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
2. Any exercise or practice with weapons of any kind;
3. Any act aimed at collecting information to the prejudice of the defence or security of the State;
4. Any act of propaganda aimed at affecting the defence or security of the State;
5. The launching, landing or taking on board of any aircraft;
6. The launching, landing or taking on board of any military device;
7. The loading or unloading of any commodity, currency or person contrary to the laws and regulations in force;
8. Any act of wilful and serious pollution;
9. Any fishing activities;
10. The carrying out of research or survey activities;
11. Any act aimed at interfering with any systems of communication or any other facilities or installations located in French territory or in French territorial waters.

Article 4

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

Article 5

The maritime prefect in mainland France and the representative of the Government in the overseas

departments, overseas territories and the territorial community of Mayotte, may take the necessary steps in their territorial waters to prevent or interrupt any passage which is not innocent.

In the case of foreign ships proceeding to internal waters or a call at a port facility outside internal waters, the above-mentioned authorities may also take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.

Article 6

The authorities referred to in article 5 above may, where necessary having regard to the safety of navigation, require foreign ships exercising the right of innocent passage through French territorial waters to use such sea lanes and traffic separation schemes as they may designate or prescribe, particularly in the case of tankers, nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials. The sea lanes and traffic separation schemes shall be indicated on sea charts to which due publicity shall be given.

These same authorities may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of the territorial waters the exercise of the right of innocent passage of foreign ships if such suspension is essential for the protection of the State's security, including weapons exercises. Such suspension shall take effect only after having been duly published.

Article 7

The provisions of this Decree are applicable to the overseas territories and to the territorial community of Mayotte.

Article 8

The Garde des Sceaux and Minister of Justice, the Minister for Foreign Affairs, the Minister of Defence, the Minister of the Interior and Decentralization, the Minister of Urbanization, Housing and Transport, the Secretary of State to the Minister of the Interior and Decentralization responsible for overseas departments and territories, and the Secretary of State to the Minister of Urbanization, Housing and Transport responsible for maritime affairs, shall be responsible, each in his own area, for the execution of this Decree, which shall be published in the Official Gazette of the French Republic.