Division for Ocean Affairs and the Law of the Sea
Office of Legal Affairs

Handbook on the Delimitation of Maritime Boundaries

United Nations

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on the Delimitation of Maritime Boundaries

Division for Ocean Affairs and the Law of the Sea
Office of Legal Affairs
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NOTE

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

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Dedicated to the memory of
Keith Highet

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FOREWORD

1. The Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs of the United Nations Secretariat, has prepared a series of publications and studies [1] for the purpose of facilitating a better understanding of the modern international law of the sea, as reflected in particular in the 1982 United Nations Convention on the Law of the Sea (hereinafter referred to as "the 1982 Convention"), [2] and to provide guidance for the interpretation and application of its provisions as well as other rules, for the use by Governments, specialized agencies of the United Nations system, academic institutions and other non-governmental entities or individuals.

2. The present Handbook is aimed at facilitating the negotiating process to which States with adjacent or opposite coasts will have to resort in case of overlapping claims. It should not be viewed as an analytical study neither as a comprehensive textbook on all matters pertaining to the delimitation of maritime boundaries, including the settlement of disputes over such boundaries.

3. The delimitation of maritime boundaries shall be reached by agreement, preferably obtained through negotiations. The overall benefits of an agreement negotiated on the basis of international law and in a spirit of understanding and cooperation among States involved cannot be overstated. If an agreement cannot be reached within a reasonable time, States could resort to one of the procedures for the settlement of disputes.

4. The delimitation of maritime boundaries, although not a new phenomenon, has certainly become an important element of the practice of States in the modern law of the sea. The establishment of maritime zones such as the territorial sea, the exclusive economic zone and the continental shelf, in conformity with international law, as reflected in the 1982 Convention, may create overlapping claims requiring maritime boundary delimitation. Maritime boundary delimitation belongs to the category of politically sensitive processes. It has a direct effect not only on the maritime zones under the national jurisdiction of the States involved, but also on the rights and interests of those States with respect to fishing and marine living resources, mineral and hydrocarbon resources, navigation and other uses of the sea.

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[1] Some of these publications and studies relevant to maritime boundary delimitation are listed in annex VIII to this Handbook.

[2] Entred into force on 16 November 1994. For its full text see Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122. See also United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea with Index and excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea (United Nations publication, Sales No. E.97.V.10).

5. Today, while an important number of maritime boundary delimitation agreements have already been concluded providing a wealth of State practice, it is estimated that over 100 maritime boundary delimitations around the world still await some form of resolution by peaceful means.

6. As we embark upon a new century with the ever increasing need for resources, it is in the best interest of coastal States to undertake negotiations for the purpose of entering into agreements on maritime boundary delimitation in order to secure the benefits, particularly the economic ones, to be derived from a clear and recognized definition of the extension of the maritime zones over which they have sovereignty or where they exercise sovereign rights or jurisdiction. It needs to be stressed that with the good political will of the States involved, many, if not most, unresolved maritime boundary delimitations could find some form of resolution, be it legal, political or technical. It is hoped that this Handbook will be a catalyst in promoting a better understanding as regards the identification and resolution of legal and technical issues arising from the negotiation of maritime boundary delimitation agreements.

7. The Handbook covers legal, technical and practical information deemed essential in negotiating maritime boundary delimitation between coastal States. It also contains information concerning the peaceful settlement of disputes in case the negotiations are unsuccessful and the States involved wish to avail themselves of the dispute settlement mechanism set out in the 1982 Convention. The Handbook consists of seven chapters and nine annexes.

8. So as not to needlessly encumber the Handbook with footnotes, the complete titles of the agreements referred to in the text are listed in annex III. Special mention should be made to the publication International Maritime Boundaries, edited by Charney and Alexander, volumes I to III (1993-1998), which contains a general introduction on maritime boundary delimitation, texts of agreements as well as in-depth analysis and illustrative maps.

9. The Division for Ocean Affairs and the Law of the Sea gratefully acknowledges the valuable contribution made by members of the group of experts, which met at United Nations Headquarters from 7 to 9 April 1999, to this Handbook. The names of those experts appear in annex IX to this Handbook.

CHAPTER 1. MARITIME ZONES SUBJECT TO BOUNDARY DELIMITATION

10. The maritime zones which would be in most cases subject to boundary delimitation are the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf. In some rare cases, States may need to delimit other maritime zones, such as the internal waters. [3]

11. The seaward limits of the different maritime zones, as provided for in the 1982 Convention, are 12 nautical miles for the territorial sea, 24 nautical miles for the contiguous zone and 200 nautical miles for the exclusive economic zone. The continental shelf extends to the outer edge of the continental margin, or to a distance of 200 nautical miles where the outer edge of the continental margin does not extend up to that distance. When the margin extends beyond 200 nm, the outer limits of the continental shelf are determined by a complex formula contained in article 76, paragraphs 4 to 6, of the 1982 Convention.

12. The provisions of the 1982 Convention concerning the maritime zones as well as the empowerment of archipelagic States to draw under certain conditions straight baselines have all enhanced the importance of baselines since it is from them that the outer limits of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf are measured. In spite of that, though, it has to be noted that the baselines are not necessarily always used as basepoints for a maritime boundary delimitation.

A. Baselines [4]

13. Article 5 of the 1982 Convention states what constitutes a normal baseline; and articles 6, 7 and 9 to 13 deal with particular geographical situations or other factors justifying a departure from the rule of the normal baseline. Article 14, on the other hand, states that the coastal State may determine baselines by any of the methods provided for in the 1982 Convention to suit different situations.

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[3] Waters on the landward side of the baseline of the territorial sea.

[4] The section on baselines is based to the large extent on The Law of the Sea: Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea (United Nations publication, Sales No. E.88.V.5).

See also A Manual - Technical Aspects of the United Nations Convention on the Law of the Sea, 1982, Special publication No. 51, 3rd ed. (Monaco, International Hydrographic Bureau, July 1993), pp. 7-27.

For technical terminology, see also annex V to the present Handbook.

1. Normal baselines

14. Article 5 of the 1982 Convention defines normal baselines, and articles 6 and 13 deal with particular cases of normal baselines associated with islands situated on atolls or islands having fringing reefs, and with low-tide elevations.

(a) Normal baselines

15. Normal baselines are defined as "*the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State*" (art. 5).

16. The term "*chart*" means a nautical chart intended for use by mariners as an aid to navigation.

17. The scale to be chosen for such special baseline charts will depend on the scale of the charts available (or, if not available, land maps) and the complexity of the low-water line. It is recommended that in general the scale should be within the range 1:50,000 to 1:200,000. A decision should be made on the number of charts needed to accommodate the area and the scale of such charts. The smaller the number of charts needed to depict the baseline adequately the better.

(b) Low-water line

18. The low-water line is the intersection of the plane of low water with the shore. The low-water mark on a chart is the line depicting the level of chart datum. The level used as the chart datum is usually a plane so low that the tide will not frequently fall below it. In practice this will be close to the lowest tidal level.

19. The low-water line along the coast is a fact irrespective of its representation on charts. The maritime zones claimed by the coastal State exist even if no particular low-water line has been selected or if no charts have been officially recognized.

20. The scale of a chart is an expression of the relationship between a distance measured on the earth's surface and the length that represents it on the chart. Thus a scale of 1:50,000 means that one unit on the map represents 50,000 units on the ground. That means that a chart with a scale of 1:50,000 is of a larger scale than a chart of scale 1:100,000. The large-scale charts allow more detail to be shown and are usually kept more up to date for minor changes than small-scale charts.

21. Article 5 of the 1982 Convention refers to "*large-scale charts*". In general, it is sufficient to refer to the appropriate published charts in order to obtain details of the "*normal baseline*".

2. Reefs

22. The two terms to be considered in article 6 (Reefs) of the 1982 Convention are "*islands situated on atolls*" and "*islands having fringing reefs*". Oceanic atolls have localized foundations, usually of volcanic origin, at depths of at least 550 metres. These are most common in the western Pacific Ocean. Shelf atolls are found on the continental shelf and usually have foundations

shallower than 550 metres. Finally, compound atolls consist of recent structures surrounding the remains of former atolls.

23. The term "*fringing reefs*" also has a strict meaning in geomorphology. Such reefs are derived from some biological process involving coral, oysters or lime-secreting worms. The fringing reef is constructed as a framework by marine animals and then filled and consolidated by sedimentation. The attached coral reef varies in width from 50 to 450 metres. If, however, it forms a continuous area of reef uncovered at low water, and contiguous with the shoreline, the provisions of article 5 will apply. In some instances, the reef may be separated from the low-water line of the island by a narrow lagoon, and there may be small channels through the reef.

24. It may be assumed that the reference to fringing reefs in article 6 can be applied without distinction to any reefs, including barrier reefs, which are separated from the low-water line of the island and form a fringe along its shore.

25. A particular point to be noted is that article 6 only permits use of the charted low-water line of the reefs as baselines. Reefs, or parts of reefs, charted as being below the level of chart datum may not be used as baselines.

26. If a fringing reef is found only along one side of an island, there is a problem of how to link the island to the reef in order to close the internal waters. It would be reasonable to use the shortest possible line.

27. "*Appropriate symbol*" in article 6 refers to the standard symbol for reefs used in nautical charts.

3. Low-tide elevations

28. Pursuant to article 13 of the 1982 Convention, a low-tide elevation is "*a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide*". It may be used as the baseline only if all or part of that elevation lies within the breadth of the territorial sea measured from the mainland or an island. If the low-tide elevation lies wholly outside the breadth of the territorial sea measured from the mainland or an island, it may not be used as part of the baseline. Therefore, careful scrutiny will be necessary to determine if a feature on a chart is a naturally formed low-tide elevation that can be used as part of the territorial sea baselines.

29. As regards archipelagic baselines, they may be drawn to low-tide elevations only if either they meet the criterion of distance (as for normal baselines) or they have a lighthouse or similar installation permanently above water built on them.

4. Straight baselines

30. Article 7 allows a coastal State to draw straight baselines in place of or in combination with normal baselines, provided that "*the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity*". The 1982 Convention does not define what constitutes a coastline which is "*deeply indented and cut into*", "*fringe of islands*" or "*immediate*

vicinity". The straight baselines must be drawn to satisfy several requirements: they must not depart from the general direction of the coast, the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters, they shall not be drawn to and from low-tide elevations, and they shall not cut off the territorial sea of another State from the high seas or an exclusive economic zone.

5. Special local applications

(a) Mouths of rivers

31. In accordance with article 9 of the 1982 Convention, if a river flows directly into the sea, the baseline is "*a straight line across the mouth of the river between points on the low-water line of its banks*".

32. Article 9 gives no guidance on the selection of the basepoints of the closing line except the requirement that they must be on the low-water line of the river's banks. Although there is reference to the mouth of the river, this is a zone which can be difficult to define in some cases, i.e., especially along a long coast with a large tidal range. There cannot be any precise answer which will apply in every type of river mouth and this probably explains the general nature of article 9.

33. Closing lines for rivers should either be shown on charts or the coordinates of the ends of the lines should be listed (art. 16).

(b) Bays

34. The issue of bays is dealt with in article 10 of the 1982 Convention. However, it has to be noted that the provisions of that article do not cover three classes of bays. The first paragraph of article 10 excludes bays which belong to more than one State. Its last paragraph excludes historic bays and bays converted to internal waters by straight baselines under article 7.

35. The second paragraph provides a subjective description and an objective test by which juridical bays can be identified. The description employs four phrases. The phrases "*a well-marked indentation*", "*more than a mere curvature of the coast*", the references to "*penetration [which] is in such proportion to the width of its mouth*" and "*land-locked waters*" describe a configuration so that the bay is surrounded on all sides but one.

36. The second paragraph deals with the technical problem of comparing the area of the bay with the area of the appropriate semicircle. Quite clearly the diameter of the semicircle is equivalent to the width of the mouth or, if there are islands near its mouths, to the combined widths of the various mouths. Furthermore, it is explicit that the water area of the bay is deemed to include islands within the bay.

37. Paragraphs 4 and 5 of article 10 specify that the maximum length of any closing line or lines is 24 nm. If the mouth of the bay exceeds that distance, the closing line may be drawn anywhere within the bay so as to enclose the maximum area of water possible yet maintaining the 24 nautical miles closing line criterion.

38. Article 16 requires that coastal States give "*due publicity*" to the location of closing lines for bays and deposit copies of charts and lists of geographical coordinates with the Secretary-General of the United Nations (see paras. 63 - 67).

(c) Ports

39. Under article 11, "*the outermost permanent harbour works which form an integral part of the harbour systems*" are regarded as forming part of the coast. This would include features such as detached breakwaters, which form an integral part of the harbour system. On the other hand, offshore installations and artificial islands are not to be considered as permanent harbour works.

(d) Roadsteads

40. Article 12 corresponds to article 9 in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone, except that the 1958 requirement to show the boundaries of roadsteads on charts has been transferred to article 16 of the 1982 Convention. Article 12 does not deal with baselines but with the outer limit of the territorial sea. It seems likely that in 1958, when many States still claimed 3-nautical-mile territorial seas, there were a number of roadsteads which lay outside the territorial seas. With a 12-nautical-mile territorial sea the number of roadsteads still outside the territorial seas have been considerably reduced.

6. Archipelagic baselines

41. Article 47 contains nine paragraphs which deal with the rules for drawing archipelagic baselines and the recording and publication of archipelagic baselines.

42. The first three paragraphs set out several requirements which the archipelagic baselines must satisfy:

- The archipelagic baselines must include the main islands;
- The archipelagic baselines must enclose an area of sea at least as large as the area of enclosed land but not more than nine times that of the land area;
- No archipelagic baseline may exceed 100 nautical miles in length; except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles; and
- The archipelagic baselines must not depart to any appreciable extent from the general configuration of the archipelago.

43. Each of these requirements must be examined in turn. The expression "*main islands*" could be interpreted in a variety of ways. Depending on the interest of the State, "*main islands*" might mean:

- The largest islands;
- The most populous islands;
- The most economically-productive islands; or

- The islands which are pre-eminent in a historical or cultural sense.

44. Since there is no restriction on the number of segments a State can draw and since the more segments used the closer the system is likely to be to the general configuration of the archipelago, it will usually be possible to adjust the number of segments to secure the necessary number of very long baselines.

45. The requirement that the baselines should not depart to any appreciable extent from the general configuration of the archipelago is similar to the requirement in article 7 that baselines should conform to the general direction of the coast.

46. As with the method of straight baselines, archipelagic baselines must not be drawn in a manner which would cut off the territorial sea of a neighbouring State from the high seas or the exclusive economic zone.

47. The last two paragraphs in article 47 deal with the recording and publication of archipelagic baselines and their deposit with the Secretary-General of the United Nations (see paras. 63 - 67).

B. Maritime zones

48. The legal nature or status of a maritime zone, which is the object of overlapping claims, pending delimitation, is particularly relevant for the process of negotiating and establishing the maritime boundary.

49. The 1982 Convention contains detailed provisions on the different maritime zones:

- Articles 2 to 16 deal with the territorial sea;
- Article 33 describes the contiguous zone;
- Articles 55 to 75 deal with the exclusive economic zone;
- Articles 76 to 85 cover the continental shelf.

1. Territorial sea

50. The outer limit of the territorial sea of each State is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea (art. 4). Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nm, measured from the baselines determined in accordance with the 1982 Convention (art. 3).

51. The sovereignty of a coastal State extends beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea. This sovereignty extends to the seabed and subsoil (art. 2).

2. Contiguous zone

52. The contiguous zone is the zone contiguous to the territorial sea where a coastal State may exercise control for preventing and punishing infringement of its laws and regulations concerning customs, fiscal, immigration or sanitary matters within its territory or territorial sea as well as removal of archaeological and historical objects found at sea.

53. Article 33 of the 1982 Convention is the sole article dealing with the contiguous zone and sets its limit as not extending beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured. The 1982 Convention does not contain any provision for the boundary delimitation of this maritime zone. It may be noted that such a provision was included in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone (art. 24, paragraph 3).

3. Exclusive economic zone

54. The breadth of the exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured (art. 57). In the case of an archipelagic State, the breadth of the exclusive economic zone shall be measured from archipelagic baselines drawn in accordance with article 47 (art. 48). The exclusive economic zone, which is an area beyond and adjacent to the territorial sea, is subject to a specific legal regime established by the 1982 Convention.

55. 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 this zone, such as the production of energy from the water, currents and winds; (b) jurisdiction with regard to the establishment and use of artificial islands, installations and structures, marine scientific research and the protection and preservation of the marine environment; and (c) other rights and duties provided for in the 1982 Convention (art. 56).

56. Under the 1982 Convention, artificial islands, installations and structures in the exclusive economic zone do not possess the status of islands, 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 (art. 60).

57. In the context of the exclusive economic zone, it has to be pointed out that a number of coastal States have chosen, at least for the time being, not to establish an exclusive economic zone. Instead, some of them claim, or continue to claim, a fishery zone, although the 1982 Convention does not provide for such a zone. In such fishery zones, the coastal States exercise sovereign rights limited only to marine living resources, as compared to the larger entitlements in an exclusive economic zone under the 1982 Convention. The existence of such zones has been generally accepted. As with the exclusive economic zone, the outer limits of a fishery zone shall not extend beyond 200 nautical miles from the baselines.

4. Continental shelf

58. The 1982 Convention significantly modified the criteria for establishing the outer limits of the continental shelf, as defined in the 1958 Geneva Convention on the Continental Shelf. The new definition of the continental shelf contained in article 76 of the 1982 Convention takes into consideration two scenarios:

- Under the first one, the breadth of this zone is limited to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. This occurs where the outer edge of the continental margin does not extend beyond that distance (art. 76);
- Under the second scenario, the outer edge of the continental margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. In this instance, the coastal State may delineate its continental shelf to a breadth greater than 200 nm, in accordance with the criteria specified in article 76. The breadth of this zone shall not exceed 350 nautical miles or extend beyond 100 nautical miles from the 2,500-metre isobath.

59. Information on the limits of the continental shelf extending beyond 200 nautical miles shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf as established under article 76 of the 1982 Convention. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf.

60. In the case of an archipelagic State, the breadth of the continental shelf shall be measured from archipelagic baselines drawn in accordance with article 47 (art. 48).

61. Coastal States exercise over the continental shelf, which comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea, exclusive sovereign rights for the purpose of exploring it and exploiting its natural resources. Such rights do not depend on occupation, effective or notional, or on any express proclamation. The natural resources consist of mineral and other non-living resources of the seabed and subsoil, together with living organisms belonging to sedentary species (art. 77).

62. Under the 1982 Convention, artificial islands, installations and structures on the continental shelf do not possess the status of islands, have no territorial sea of their own, and their presence does not affect the delimitation of the continental shelf (art. 80).

C. Deposit of charts / list of coordinates and due publicity

63. Coastal States, under article 16, paragraph 2, article 47, paragraph 9, article 75, paragraph 2, and article 84, paragraph 2, of the Convention, are required to deposit with the Secretary-General of the United Nations charts showing straight baselines and archipelagic baselines as well as the outer limits of the territorial sea, the exclusive economic zone and the continental shelf; alternatively the lists of geographical coordinates of points, specifying the geodetic datum, may be substituted. Coastal States are also required to give due publicity to all these charts and lists of geographical coordinates. Similarly, under article 76, paragraph 9, coastal States are further required to deposit

with the Secretary-General charts and relevant information permanently describing the outer limits of the continental shelf extending beyond 200 nautical miles. In this case, due publicity is to be given by the Secretary-General.

64. Conscious of these provisions, the General Assembly, in its resolution 49/28, paragraph 15, requested the Secretary-General to carry out a number of functions consequent upon the entry into force of the 1982 Convention, inter alia, by:

> *"(f) Establishing appropriate facilities, as required by the Convention, for the deposit by States of maps, charts and geographic coordinates concerning national maritime zones and establishing a system for their recording and publicity..."*

65. The Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, as the responsible substantive unit of the United Nations Secretariat has established facilities for the custody of charts and lists of geographical coordinates deposited in accordance with the 1982 Convention. In keeping with the relevant provisions of the 1982 Convention, States Parties are required to provide appropriate information regarding original geodetic datum, together with the submission of their charts and/or lists of geographical coordinates. States Parties should provide all the necessary information for conversion of the submitted geographic coordinates from the original datum into the World Geodetic System 84 (WGS 84), a geodetic datum system that is increasingly being accepted as the standard and is used by the Division to produce its illustrative maps.

66. The Division has also adopted a system for the dissemination of such information in order to assist States in complying with their due publicity obligations. The Division informs States Parties to the 1982 Convention of the deposit of charts and geographical coordinates through a "maritime zone notification". Subsequently, the information is set forth in the periodic publication entitled Law of the Sea Information Circular (LOSIC) for circulation to all States. To date, the 11 issues of the LOSIC that have been circulated show how States Parties have been discharging their deposit and due publicity obligations and thus give ample evidence of the practice of States in this regard (see annexes I and II, LOSIC issue No. 11, 2000). In addition, the charts and the text of the relevant legislation are published in the Law of the Sea Bulletin, a sales publication of the United Nations.

67. The Division for Ocean Affairs and the Law of the Sea has also established a Geographic Information System (GIS). GIS enables the Division to store and process geographic information and produce custom-tailored cartographic outputs through the conversion of conventional maps, charts and lists of geographical coordinates in digital format. GIS also helps the Division to identify any inconsistencies in the information submitted. The GIS database is connected with the Division's National Legislation/Delimitation Treaties database, which facilitates retrieval of relevant information on certain geographic features.

CHAPTER 2. NORMS AND RULES APPLICABLE TO MARITIME BOUNDARY DELIMITATION

68. The delimitation of maritime boundaries is governed by a body of law that has evolved through codification and progressive development as reflected in treaty provisions. The jurisprudence of the International Court of Justice and ad hoc tribunals has also greatly contributed to its development.

69. In this connection, it may be useful to recall a remark by the Chamber of the International Court of Justice in the Gulf of Maine case:

> *"One preliminary remark is necessary before we come to the essence of the matter, since it seems above all essential to stress the distinction to be drawn between what are principles and rules of international law governing the matter and what could be better described as the various equitable criteria and practical methods that may be used to ensure* in concreto *that a particular situation is dealt with in accordance with the principles and rules in question."* [5]

A. Treaty provisions on maritime boundary delimitation

70. Two of the Geneva Conventions on the Law of the Sea of 29 April 1958, namely the Convention on the Territorial Sea and the Contiguous Zone and the Convention on the Continental Shelf, as well as the 1982 Convention, contain provisions dealing with the delimitation of maritime zones. The rules applicable to the delimitation are different depending on the zones concerned. In this connection, it also needs to be noted that the 1982 Convention, under its article 311, prevails, as between States Parties, over the 1958 Geneva Conventions.

1. Territorial sea

71. Article 15 of the 1982 Convention is identical in substance to article 12, paragraph 1, of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone.

72. Article 15 of the 1982 Convention reads as follows:

> *"Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith."*

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[5] Delimitation of the Maritime Boundary in the Gulf of Maine Area, Judgment, I.C.J. Reports, 1984, p. 290, para. 80.

73. The reference to the marking on charts, which is contained in article 12, paragraph 2, of the 1958 Geneva Convention, has been further developed in article 16 of the 1982 Convention dealing specifically with charts and lists of geographical coordinates.

74. These two provisions, articles 12 and 15, which are commonly believed to reflect customary law, coincide by applying the method of the median line every point of which is equidistant from the nearest point on the baselines for the delimitation of the territorial sea when States fail to agree between them. States Parties, in the absence of an agreement, may not extend their territorial seas beyond the median line.

75. However, this method does not apply by reason of historic title or other special circumstances. The introduction of the concept of special circumstances in both articles 12 and 15 shows that considerations of equity are present in the conventional regime applicable to the delimitation of the territorial sea.

76. The rules apply both in the case of delimitation between States with adjacent coasts and in the case of delimitation between States with opposite coasts.

77. Regarding delimitation of the territorial sea, the practice of States demonstrates that the equidistance method has been commonly applied. Owing to the maximum breadth of 12 nm, which is relatively short, there are comparatively few cases of frontal delimitation of the territorial sea. They are found, for example, between States bordering straits. The Agreements between Indonesia-Malaysia (1970) and between Indonesia-Singapore (1973), applied equidistance as the main method of delimitation.

78. Two different approaches have emerged in State practice concerning lateral delimitation, either:

- To conclude separate agreements for the segment of the boundary relating respectively to the territorial sea and the other maritime zones, as in the case of Belgium-the Netherlands (1996); or
- To agree on an all-purpose maritime boundary, as in the Agreement between Tanzania and Kenya (1975-1976).

79. In both cases, States tend to follow the equidistance method for the part of the boundary relating to the territorial sea, except in the few cases in which a different single method is used for the entire boundary, such as following the parallel or a perpendicular line from land.

80. In any case, it seems that, with regard to the delimitation of the territorial sea, a practical approach to facilitate the negotiations might be to start with the drawing of an equidistant line and then to consider it in the light of the special circumstances of the case, in order to proceed eventually to all adjustments to which the parties may agree.

2. Continental shelf and exclusive economic zone

81. The rules of delimitation under both the 1958 Geneva Convention on the Continental Shelf and the 1982 Convention are described to illustrate the evolution of the practice of States and of jurisprudence.

(a) Continental shelf under the 1958 Geneva Convention

82. The first codified rules regarding the delimitation of the continental shelf appear in article 6 of the 1958 Geneva Convention on the Continental Shelf:

> *"1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.*
>
> *"2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.*
>
> *"3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land."*

83. Under article 6, the delimitation of the continental shelf has to be effected by agreement. In case of no agreement, two solutions are offered:

- Between two or more States with opposite coasts and unless another boundary is justified by special circumstances, the boundary is the median line;
- Between two or more States with adjacent coasts and unless another boundary is justified by special circumstances, the boundary shall be determined by the application of the principle of equidistance from the nearest points of the baselines from which the breath of the territorial sea of each State is measured.

84. Article 6 introduces the notion of "special circumstances" in order to mitigate the possible inequitable results that a strict equidistance could lead to. The Anglo-French Arbitral Tribunal mentioned that notion in the famous passage of its Award of 30 June 1977:

"... In short, the role of the 'special circumstances' condition in article 6 is to ensure an equitable delimitation; and the combined 'equidistance-special circumstance rule', in effect, gives particular expression to a general norm that, failing agreement, the boundary between States abutting on the same continental shelf is to be determined on equitable principles." [6]

85. More than 60 agreements dealing with the delimitation of the continental shelf have been concluded, particularly between 1965 and 1974, after the entry into force on 10 June 1964 of the 1958 Geneva Convention on the Continental Shelf. [7] Some agreements were adopted after a long and arduous contentious phase, such as the Agreements between Germany and Netherlands (1971) and between Germany and Denmark (1971) after the judgment in the Continental Shelf cases (1969).

(b) Exclusive economic zone and continental shelf under the 1982 Convention

86. The 1982 Convention contains identical provisions for the delimitation of the exclusive economic zone (art. 74) and the delimitation of the continental shelf (art. 83), although those two zones are different by nature:

"1. The delimitation of the exclusive economic zone [continental shelf] between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

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

"3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

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

87. Under articles 74 and 83, the delimitation of the exclusive economic zone or the continental shelf:

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[6] Case concerning the delimitation of the continental shelf between the United Kingdom of Great Britain and Northern Ireland, and the French Republic, Decision of 30 June 1977, UNRIAA, vol. XVIII, p. 45, para. 70.

[7] See The Law of the Sea: Maritime Boundary Agreements (1970-1984) (United Nations publication, Sales No. E.87.V.12).

- Shall be effected by agreement on the basis of international law, as referred to article 38 of the Statute of the International Court of Justice, including treaties applicable between parties;
- An equitable solution shall be reached;
- In case of the absence of an agreement, the States concerned are requested to make every effort to enter into provisional arrangements of a practical nature and not to jeopardize or hamper the reaching of the final agreement.

88. The differences between the regimes of the 1958 Geneva Convention and the 1982 Convention are quite important although both are based on the fundamental rule that the delimitation should be first effected by agreement, which is the cornerstone of maritime boundary delimitation.

89. As the International Court of Justice stated:

> *"... any delimitation must be effected by agreement between the States concerned, either by the conclusion of a direct agreement or, if need be, by some alternative method, which must, however, be based on consent."* [8]

90. In conformity with this rule, States have "*the duty to negotiate...in good faith, with a genuine intention to achieve a positive result*".[9] Therefore, it is incumbent upon the parties "*to enter into negotiations, but also to pursue them as far as possible, with a view to concluding agreements*". [10]

91. The International Court of Justice confirmed that the parties were under an obligation to enter into negotiations with a view to arriving at an agreement and not merely to go through a formal process of negotiation as a sort of prior condition for the automatic application of a certain method of delimitation in the absence of an agreement.

92. As a consequence, unilateral delimitation of maritime spaces is not binding on third States. In this respect, the International Court of Justice declared in the 1951 Fisheries case that:

> *"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 ... the validity of the delimitation with regard to other States depends upon international law."* [11]

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[8] Delimitation of the Maritime Boundary in the Gulf of Maine Area, Judgment, I.C.J. Reports, 1984, p. 292, para. 89.

[9] Ibid., para. 87.

[10] P.C.I.J., Series A/B, No. 42, (1931), p. 116.

[11] Fisheries case, Judgment of December 18th, 1951: I.C.J. Reports 1951, p. 132.

93. However, the most important consequence of the fundamental rule that maritime boundary delimitation should be effected by agreement is that the parties are free to adopt whatever delimitation line they wish, whether that line is based on political, economical, geographic or any other kind of consideration. It has been stressed that delimitation by agreement is above all a political operation dependent first and foremost on the existence of political will.

94. The goal of achieving an equitable result when establishing the delimitation of a maritime zone appeared also in the Truman Proclamation of 1945 and has since become customary law applicable to all maritime boundary delimitation. It is a principle that stems from the jurisprudence of the International Court of Justice or ad hoc arbitral tribunals and was again confirmed by the Court in the Jan Mayen case:

> *"That statement of an `equitable solution' as the aim of any delimitation process reflects the requirements of customary law as regards the delimitation both of continental shelf and of exclusive economic zones."* [12]

95. The question concerning the interim solution in the absence of agreement is dealt with in the 1958 Geneva Convention and the 1982 Convention, as follows:

- Article 6 of the 1958 Geneva Convention on the Continental Shelf establishes that, failing agreement, the continental shelf boundary shall be the equidistant line unless another line is justified by special circumstances;
- Article 83 of the 1982 Convention proposes that States should enter into provisional arrangements.

96. There are examples in State practice of such provisional arrangements. The most prominent among them is, perhaps, the Agreement between Indonesia and Australia (Timor Gap) (1989) adopted in application of article 83, paragraph 3, of the 1982 Convention. [13] Also, having completed the negotiations, States may agree on provisional application of a maritime boundary delimitation agreement pending its entry into force. For example, the Agreement between the United States of America and Cuba concluded in 1977 has not entered into force but is being applied provisionally by the parties since 1978 through a regular exchange of notes.

97. Few agreements have been concluded referring specifically to the exclusive economic zone: France-Tonga (1980) and France-Fiji (1983).

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12 Maritime Delimitation in the Area between Greenland and Jan Mayen, Judgment, I.C.J. Reports 1993, p. 59, para. 48.

13 On 10 February 2000, the United Nations Transitional Administration in East Timor (UNTAET) and the Government of Australia concluded an agreement concerning the continued operation of the Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia of 11 December 1989. See Law of the Sea Bulletin, No. 42, p. 100.

98. The boundaries negotiated recently deal very often with an all-purpose delimitation line to cover both marine and submarine areas (Venezuela - Trinidad and Tobago (1990)). The agreements based on a single line or "all-purpose line" currently number more than 50 and continue to grow, although considerations of oil deposits, for the continental shelf, or relating to fishing or navigation, for the exclusive economic zone, might call for different lines. Among those agreements are: Panama-Colombia (1976), France-Australia (1982) and USSR-Finland (1985). However, some recent agreements deal with the continental shelf only, such as the Agreement between the United Kingdom of Great Britain and Northern Ireland and Ireland (1988).

B. The contribution of jurisprudence to the rules applicable to maritime boundary delimitation

99. A vast jurisprudence has been developed by the International Court of Justice and ad hoc arbitral tribunals, [14] which have *"undertaken the direct definition of the law of maritime delimitation, giving it the appearance and name of general or customary international law. There is probably no other chapter of international law which has been written so exclusively and rapidly by the international courts"*. [15]

100. Delimitation by judicial settlement is a legal operation which must be based *"on considerations of law"*. [16] In this respect, it has to be mentioned, as confirmed by jurisprudence, that there is a distinction between delimitation based on legal rules and delimitation by States during negotiations, which involves political considerations, among others.

101. In the delimitation based on legal rules, the International Court of Justice and arbitral tribunals have always interpreted *"relevant"* equitable criteria and factors applicable to maritime boundary delimitation as meaning directly relevant to the delimitation operation and, therefore, of a non-political or economic nature. The Court has avoided giving a close list of "relevant" circumstances in view of the fact that each delimitation is a particular case that has to be decided upon its own merits.

102. The question remains as against what parameters to assess the equity of a particular delimitation line. Since for a State the entitlement to maritime zones proceeds from the existence of a coast, geographical considerations are therefore of primary and fundamental importance in assessing whether a delimitation line for any of the existing maritime zones is equitable or not (see chapter 3.).

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[14] See annex IV to the present Handbook, List of cases before the International Court of Justice and before International Arbitral Tribunals.

[15] Prosper Weil, The Law of Maritime Delimitation-Reflections, (Cambridge, Grotius Publications Limited, 1989), p. 7.

[16] Case concerning the delimitation of the maritime boundary between Guinea and Guinea-Bissau, Decision of 14 February 1985, p. 193, para. 120, in UNRIAA, vol. XIX. See also I.C.J. Reports 1969, p. 48, para. 88 (North Sea Continental Shelf, Judgment), and I.C.J. Reports 1982, p. 60, para. 71 (Continental Shelf (Tunisia/Libyan Arab Jamahiriya), Judgment).

The Court has referred in the 1969 North Sea Continental Shelf cases to the principle that *"the land dominates the sea"*, and affirmed that *"land is the legal source of the power which a State may exercise over territorial extensions to seaward"*. [17]

103. In addition to the presence of a coast, the Court also held that, regarding the continental shelf, entitlement is also based on geological or geomorphological elements. Accordingly, the jurisprudence of the Court has referred to the criterion of natural prolongation/non-encroachment in relation to the continental shelf to take into account those relevant geological or geomorphological elements.

1. Natural prolongation / non-encroachment

104. The principle of natural prolongation was first mentioned by the International Court of Justice in the 1969 North Sea Continental Shelf cases: "*...whenever a given submarine area does not constitute a natural - or the most natural - extension of the land territory of a coastal State, even though that area may be closer to it than it is to the territory of any other State, it cannot be regarded as appertaining to that State; - or at least it cannot be so regarded in the face of a competing claim by a State of whose land territory the submarine area concerned is to be regarded as a natural extension, even if it is less close to it.*" [18]

105. A corollary to this principle was that a court or tribunal would not choose as a boundary a line that encroached on or cut off areas that more naturally belonged to one party rather than the other. The Court held that the delimitation of the continental shelf should be effected:

> *"...in such a way as to leave as much as possible to each party all those parts of the continental shelf that constitute a natural prolongation of its land territory into and under the sea, without encroachment on the natural prolongation of the land territory of the other."* [19]

106. The Court did not find any geological or geomorphological element in the North Sea continental shelf between the Netherlands, Denmark and Germany justifying a particular seabed boundary, but left opened that possibility for the future and based its decision on considerations of equity and proportionality.

107. In the 1978 Arbitration between the United Kingdom and France, the Tribunal endorsed the view held in the 1969 North Sea Continental Shelf case that:

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[17] Ibid., 1969, p. 51, para. 96.

[18] Ibid., 1969, p. 31, para. 43.

[19] Ibid., 1969, p. 53, para. 101(C) (1).

> *"[T]he continental shelf of any State must be the natural prolongation of its land territory and must not encroach upon what is the natural prolongation of the territory of another State."* [20]

108. The Tribunal, however, concluded that:

> *"So far as delimitation is concerned, however, this conclusion states the problem rather than solves it. The problem of delimitation arises precisely because in situations where the territories of two or more States abut on a single continuous area of continental shelf, it may be said geographically to constitute a natural prolongation of the territory of each of the States concerned."* [21]

109. From these passages it may be concluded that the Tribunal considered the concepts of natural prolongation and non-encroachment as relevant to the delimitation of boundaries of continental shelves between adjacent or opposite States, only if it could be proved that there exists a major geological discontinuity between the two continental shelves. The Tribunal dismissed the Hurd Deep and the Hurd Deep Fault Zone because, in its opinion, it did not interrupt the geological continuity of the shelf between France and the United Kingdom.

110. The Arbitral Tribunal in the Anglo-French cases further restricted the interpretation of natural prolongation in the case of islands belonging to one State situated in the vicinity of another State by stating that:

> *"[T]he principle of natural prolongation of territory is neither to be set aside nor treated as absolute in a case where islands belonging to one State are situated on continental shelf which would otherwise constitute a natural prolongation of the territory of another State. The application of that principle in such a case, as in other cases concerning the delimitation of the continental shelf, has to be appreciated in the light of all the relevant geographical and other circumstances."* [22]

111. The International Court of Justice in the 1982 Tunisia-Libyan Arab Jamahiriya case confirmed the findings of the Anglo-French Arbitral Tribunal and stated that, while not accepting Libya's position that the relative size and importance of the features relied on by Tunisia could be reduced to insubstantial proportions, it was unable to find that any of them involved "*such a marked disruption or discontinuance of the seabed as to constitute an indisputable indication of the limits of two separate continental shelves, or two separate natural prolongations.*" [23]

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[20] Ibid., 1969, p. 47, para. 85(c).

[21] Case concerning the delimitation of the continental shelf between the United Kingdom of Great Britain and Northern Ireland, and the French Republic, Decision of 30 June 1977, UNRIAA, vol. XVIII, p. 49, para. 79.

[22] Ibid., p. 92, para. 194.

[23] I.C.J. Reports 1982, p. 57, para. 66.

112. In the 1985 Libyan Arab Jamahiriya/Malta case, Libya contended that the natural prolongation principle involving geographical and geomorphological aspects remained the fundamental basis of legal title to continental shelf areas. The Court held that:

> *"... for juridical and practical reasons, the distance criterion must now apply to the continental shelf as well as to the exclusive economic zone; ... This is not to suggest that the idea of natural prolongation is now superseded by that of distance. What it does mean is that where the continental margin does not extend as far as 200 miles from the shore, natural prolongation...is in part defined by distance from the shore, irrespective of the physical nature of the intervening seabed and subsoil."* [24]

113. The International Court of Justice, echoing the development of international law with respect to the entitlement to a continental shelf up to 200 nautical miles from the coast as contained in article 76 of the 1982 Convention, further stated that:

> *"... since the development of the law enables a State to claim that the continental shelf appertaining to it extends up to as far as 200 miles from its coast, whatever the geological characteristics of the corresponding seabed and subsoil, there is no reason to ascribe any role to geological or geophysical factors within that distance either in verifying the legal title of the States concerned or in proceeding to a delimitation as between their claims..."* [25]
>
> The Court continued by stating that:
>
> *"... to rely on ... jurisprudence [which] appears to ascribe a role to geophysical or geological factors in delimitation," [it would mean to rely on a regime] "which used to allot those factors a place which now belongs to the past, in so far as seabed areas less than 200 miles from the coast are concerned."* [26]

114. Thus, in this judgment, the Court did not take into account geological and geomorphological factors. The Court also based its reasoning on the new regime of the exclusive economic zone whose "*principles and rules...cannot be left out of consideration*". [27]

115. The role played by geographical factors coupled with the principle of equitable results has produced the concept of proportionality, which is at the heart of the principle of equity.

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24 I.C.J. Reports, 1985, p. 33, para. 34, Continental Shelf (Libyan Arab Jamahiriya/Malta), Judgment.

25 Ibid., p. 35, para. 39.

26 Ibid., p. 36, para. 40.

27 Ibid., p. 33, para. 33.

2. Proportionality

116. The concept of proportionality is based upon the relationship between the lengths of the relevant coasts of two or more States whose maritime zones have to be delimited, on the one hand, and the area of maritime space to be allocated to each of the parties by the delimitation, on the other.

117. It is difficult to determine with precision what role this concept has played in negotiated maritime boundaries. There are examples in State practice that show that proportionality might have been taken into account both in lateral and frontal delimitations involving islands when the agreed boundary (or a part of it) was not an equidistant line. For instance, in the delimitation between France and Spain (1974), the continental shelf boundary was divided in two segments: the first was an equidistant line and the second was a negotiated line which takes account of proportionality between the lengths of the respective coastal fronts and the respective areas of continental shelf. In the delimitation between Netherlands (Netherlands Antilles) and Venezuela (1978), the parties had to take into account the relationship between the length of the coast of a continental State versus the obviously shorter coast and lesser mass of an insular entity.

118. However, the concept of proportionality has played a role in all maritime boundaries settled by judicial means. It was first considered by the International Court of Justice in the North Sea Continental Shelf cases as a decisive factor for the rejection of equidistance. In that case the Court held:

> *"A final factor to be taken account of is the element of a reasonable degree of proportionality which a delimitation effected according to equitable principles ought to bring about between the extent of the continental shelf appertaining to the States concerned and the lengths of their respective coastlines, - these being measured according to their general direction in order to establish the necessary balance between States with straight, and those with markedly concave or convex coasts, or to reduce very irreguar coastlines to their truer proportions."* [28]

119. In the Anglo-French Arbitration of 1977 the significance attributed by the International Court of Justice to proportionality was reconsidered, and proportionality was more clearly defined. The Court stated:

> *"The concept of `proportionality' merely expresses the criterion or factor by which it may be determined whether such a distortion results in an inequitable delimitation of the continental shelf as between the coastal States concerned. The factor of proportionality may appear in the form of the ratio between the areas of continental shelf to the lengths of the respective coastlines, as in the North Sea Continental Shelf cases. But it may also appear, and more usually does, as a factor for delimiting the reasonable or unreasonable - the equitable or inequitable - effects of particular*

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[28] I.C.J. Reports 1969, p. 52, para. 98.

geographical features or configurations upon the course of an equidistance-line boundary." [29]

120. And:

> *"In short, it is disproportion rather than any general principle of proportionality which is the relevant criterion or factor. The equitable delimitation of the continental shelf is not ... a question of apportioning - sharing out - the continental shelf amongst the States abutting upon it. Nor is it a question of simply assigning to them areas of the shelf in proportion to the length of their coastlines; for to do this would be to substitute for the delimitation of boundaries a distributive apportionment of shares... it is rather a question of remedying the disproportionality and inequitable effects produced by particular geographical configurations or features in situations where otherwise the appurtenance of roughly comparable attributions of continental shelf to each State would be indicated by the geographical facts. Proportionality, therefore, is to be used as a criterion or factor relevant in evaluating the equities of certain geographical situations, not as a general principle providing an independent source of rights to areas of continental shelf."* [30]

121. The first quantified application of the concept by the International Court of Justice was in the 1982 Tunisia-Libyan Arab Jamahiriya case:

> *"Thus the relevant coastline of Libya stands in the proportion of approximately 31:69 to the relevant coastline of Tunisia... With regard to seabed areas, it notes that the areas of shelf below low-water mark within the area relevant for delimitation appertaining to each State following the method indicated by the Court stand to each other in approximately the proportion: Libya 40; Tunisia 60. This result, taking into account all the relevant circumstances, seems to the Court to meet the requirements of the test of proportionality as an aspect of equity".* [31]

122. In the 1984 Gulf of Maine case, a Chamber of the International Court of Justice applied the idea of the difference in length between the two coastlines to correct the boundary line as initially drawn. The Court in fact held:

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29 Case concerning the delimitation of the continental shelf between the United Kingdom of Great Britain and Northern Ireland and the French Republic, Decision of 30 June 1977, UNRIAA, vol. XVIII, p. 58, para. 100.

30 Ibid., p. 58, para. 101.

31 I.C.J. Reports 1982, p. 91, para. 131

> *"[I]t is equally certain that a substantial disproportion to the lengths of those coasts that resulted from a delimitation effected on a different basis would constitute a circumstance calling for an appropriate correction."* [32]

123. In the 1985 Libyan Arab Jamahiriya-Malta case the Court held that the 8:1 ratio of the length of the Libyan coastline to the Maltese coastline was a reason for adjusting the median line but did not constitute a legal principle applicable to maritime boundary delimitation per se. The Court held:

> *"Proportionality is certainly intimately related both to the governing principle of equity, and to the importance of coasts in the generation of continental shelf rights. Accordingly, the place of proportionality in this case calls for the most careful consideration."* [33]

124. A similar view was taken in the 1993 Jan Mayen case, where the Court referred to the test of proportionality when it decided to depart from the use of the equidistant line. The Court held:

> *"There are however situations - and the present case is one such - in which the relationship between the length of the relevant coasts and the maritime areas generated by them by application of the equidistance method is so disproportionate that it has been found necessary to take this circumstance into account in order to ensure an equitable solution. The frequent references in the case-law to the idea of proportionality - or disproportion - confirm the importance of the proposition that an equitable delimitation must, in such circumstances, take into account the disparity between the respective coastal lengths of the relevant area."* [34]

125. Finally the Arbitral Tribunal in the 1999 Eritrea-Yemen case concerning maritime delimitation [35] applied the test of proportionality, or absence of disproportionality to the line previously obtained by the equidistance method .

126. Thus, proportionality, or rather the absence of disproportionality, is to be used as a test to evaluate the equitableness of a result obtained after other methods of delimitation have been applied. It seems that proportionality has a more important role to play in lateral delimitation in order to remedy inequitable results produced by geographical features, such as certain degrees of concavity or convexity in a given coastline.

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32 I.C.J. Reports 1984, p. 323, para. 185.

33 I.C.J. Reports 1985, p. 43, para. 55.

34 I.C.J. Reports 1993, p. 67, para. 65.

35 See Award in the Phase II of the Arbitration, 17 December 1999. See the web site of the Permanent Court of Arbitration, http://www.pca-cpa.org/ERYE2intro.htm.

CHAPTER 3. FACTORS EXERTING AN INFLUENCE ON MARITIME BOUNDARY DELIMITATION

127. A number of geographical, historical, political, economic, security or other factors may be taken into account during the maritime boundary delimitation process. In a negotiating process, States have wide latitude and flexibility in trying to influence the outcome of the negotiations in favour of their rights and interests by using as many factors as they deem appropriate for the construction of the line or lines they consider equitable and satisfactory. In other words, there is no limit to the factors which States may take into account when negotiating.

128. As the Court stated in its 1969 Judgment in the North Sea Continental Shelf cases:

> *"In fact, there is no legal limit to the considerations which States may take account of for the purpose of making sure that they apply equitable procedures, and more often than not it is the balancing-up of all such considerations that will produce this result rather than reliance on one to the exclusion of all others. The problem of the relative weight to be accorded to different considerations naturally varies with the circumstances of the case".* [36]

129. For a court, not all factors can be taken into consideration as criteria to be applied to a delimitation (see para. 101). They may be used when deciding on the equitable nature of the delimitation initially based on the physical and political geography.

130. The practice of States shows that geographical considerations are, in most cases, the main considerations taken into account by States when concluding their maritime boundary delimitation agreements. Even when other elements, such as economic, political and security factors, are taken into account, they are normally used as a way to refine a previous line constructed on the basis of geographical considerations.

A. Geographical factors [37]

131. The following non-exhaustive list contains the main elements which could be taken into consideration in the maritime boundary delimitation process:

- Regional geography, including general characteristics and particular features of the region (ocean, semi-enclosed sea, etc.);
- Configuration of the coast, including adjacency and oppositeness, direction, comparative lengths; concave or convex shape;

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[36] I.C.J. Reports 1969, p. 50, para. 93.

[37] See also Prosper Weil, "Geographical considerations in maritime delimitation", International Maritime Boundaries (The American Society of International Law), J. I. Charney and L. M. Alexander eds., (Dordrecht, Boston, London, Martinus Nijhoff Publishers, 1993), vol. I, p. 115.

- Basepoints, including presence of ports, roadsteads, bays, river mouths, islands, low-tide elevations, reefs and their situation in relation to the coast;

- Presence of islands and rocks.

1. Geographical context of the relevant area

132. This issue must be carefully considered during the preparation of the negotiations and at the drafting stage of the proposals to be submitted. In this context, it should borne in mind that it is preferable not to invoke the notion of the relevant area to be delimited at the outset of the negotiations. This may be a prescription for early disagreement. The recourse to the relevant area is mainly useful when dealing with the proportionality exercise, for instance, when offshore features come into play or there is a change from a situation of adjacency to oppositeness, or conversely.

133. However, the relevant area is important in case of adjudication. Both the judgments of the International Court of Justice and the awards of arbitral tribunals contain at the beginning of their findings a general description of the area in which the delimitation operation is to be carried out. For example, the Court in its 1985 Libyan Arab Jamahiriya - Malta case stated:

> *"It is appropriate to begin with a general description of the geographical context of the dispute before the Court, that is to say the area in which the continental shelf delimitation, which is the subject of the proceedings, has to be effected...to outline the general background...to define in geographical terms the area which is relevant to the delimitation and the area in dispute between the Parties".* [38]

And in its 1993 Jan Mayen case (Denmark/Norway), the Court also stated:

> *"The maritime area which is the subject of the present proceedings before the Court is that part of the Atlantic Ocean ... as indicated on sketch-map No. 1...".* [39]

134. Before the Court, States have often attempted to enclose, totally or partially, the area to be delimited in geometric figures - rectangles, squares or even cones - in order to facilitate the quest for a delimitation line. In bilateral negotiations, and when dealing with open oceanic spaces, rather than areas near to the coastline, such technique might be useful to help the parties focus, in broad terms, on the general orientation of the line to be achieved, as a first step in the gradual building up of an agreement.

2. Physical geography or configuration of the coasts

135. The coastal geography is at the centre of any maritime boundary delimitation, since the starting point of the delimitation operation is the coast of each of the two States. *"... `the land dominates the*

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38 I.C.J. Reports 1985, p. 20, para. 14.

39 I.C.J. Reports 1993, p. 44, para. 11.

sea' and it dominates it 'by the intermediary of the coastal front'". [40] As the International Court of Justice has commented: *"The delimitation line to be drawn in a given area will depend upon the coastal configuration."* [41] The coastal geography is regarded as *"the leading factor in maritime delimitation"* [42] and the coastal fronts and the physical configuration of the coasts are the principal parameters in this regard.

136. The importance of the coastline, or rather the coastal front, has been underlined by the International Court of Justice: "*[I]t is by means of the maritime front of this landmass, in other words by its coastal opening, that this territorial sovereignty brings its continental shelf rights into effect."* [43] Moreover, "*...the attribution of maritime areas to the territory of a State, which, by its nature, is destined to be permanent, is a legal process based solely on the possession by the territory concerned of a coastline."* [44]

137. The coast with its own characteristics plays an important role. The two coasts may be of different lengths, concave or convex, or even have other special features. The Court in the Gulf of Maine case stressed that *"...the facts of geography are not the product of human action amenable to positive or negative judgment, but the result of natural phenomena, so that they can only be taken as they are".* [45] All this does not mean that the delimitation process based on the configuration of a coast is an objective operation.

138. Various interpretations and positions may be adopted as to:

- The general direction of the coastline;
- Any changes of its direction;
- Whether to take minor features into account, and what constitutes a "minor" or "major" feature for this purpose;
- The existence of one or more coastal fronts;

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[40] Prosper Weil, The Law of Maritime Delimitation-Reflections (Cambridge, Grotius Publications Limited, 1989), p. 51.

[41] I.C.J. Reports 1984, p. 330, para. 205.

[42] Prosper Weil, "Geographical considerations in maritime delimitation", International Maritime Boundaries (The American Society of International Law), J. I. Charney and L. M. Alexander eds., (Dordrecht, Boston, London; Martinus Nijhoff Publishers, 1993), vol. I, p. 115.

[43] I.C.J. Reports 1985, pp. 40-41, para. 49.

[44] I.C.J. Reports 1993, pp. 73-74, para. 80.

[45] I.C.J. Reports 1984, p. 271, para. 37.

- The regular or irregular indentation of the coast;
- Its degree of concavity or convexity;
- The calculation of the length of each coast or segment of coast;
- The difference between the lengths of the coasts;
- The proportionality between their lengths; and
- The adjacent or opposite situation of the coasts.

(a) Adjacent or opposite coasts

139. The geographic configuration of the relevant coasts most frequently taken into consideration in a maritime boundary delimitation is that of adjacency or oppositeness (see Illustration Nos. 5 and 6). Due to its nature, the equidistance method (modified or not) may be applied in both situations, as the practice of States [46] and international jurisprudence [47] show, although it seems more appropriate in the case of opposite coasts. In the case of adjacent coasts, the potential inequitable results produced by equidistance are much more important due to a number of factors, such as the irregularity of the coastline itself or the presence of islands.

140. Many delimitation cases show situations of mixed oppositeness/adjacency (see Illustration No. 15, "Delimitation between Ireland and the United Kingdom", para. 226, p. 58). From a cartographic point of view, the equidistance method may highlight where precisely the delimitation ceases to be between "adjacent" coasts to become one between "opposite" coasts and vice-versa, which may be important when using the proportionality criteria.

(b) General direction of the coast

141. The direction of the coast is relevant in delimitations, mainly between adjacent coasts, in which the method of perpendicularity or a simplified form of equidistance is used. Here, clearly, it is very important that the parties agree precisely on the sector of the coast which is to be taken into account in this process of defining its general direction. The length of such sector would normally

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[46] "Sixty-two of the boundaries examined involve delimitations between opposite coasts. Of these, 55 boundaries, or 89 per cent, are based on the equidistance method, while only 8 boundaries, or 13 per cent, are based on a method other than equidistance for a substantial portion of their length." (Leonard Legault and Blair Hankey, "Method, oppositeness and adjacency, and proportionality in maritime boundary delimitation", International Maritime Boundaries, J. I. Charney & L. M. Alexander eds., (Dordrecht, Boston, London; Martinus Nijhoff Publishers, 1993), vol. I, p. 215).

[47] In the 1993 Jan Mayen case, the Court affirmed that, both under customary law for fishery zones and conventional rules on the continental shelf as contained in article 6 of the 1958 Geneva Convention on the Continental Shelf, it was appropriate to start the delimitation process between opposite coasts by drawing an equidistant line. I.C.J. Reports 1993, pp. 59-60, para. 49; p. 61, para. 52; pp. 61-62, para. 53.

vary also in relation with the expected extension of the delimitation line itself: the farther from the coast its ending point, the lengthier should be the coastline to be taken into account.

(c) Comparative lengths of the relevant coastlines

142. The comparative length of the relevant coastlines has become one of the most important factors in maritime boundary delimitation in order to apply the factor or test of proportionality based on equitable considerations. Here also, the parties must agree upon the method used to compute the length of the coastlines, especially when they would deem appropriate to simplify, even drastically, its configuration for this purpose.

(d) Concave or convex shape

143. The relevance of the convexity or concavity of the relevant coastline was highlighted by the International Court of Justice in the 1969 North Sea Continental Shelf cases. The distorting effects of the equidistance method in the presence of a concave or convex coastline is shown in the following illustrations:

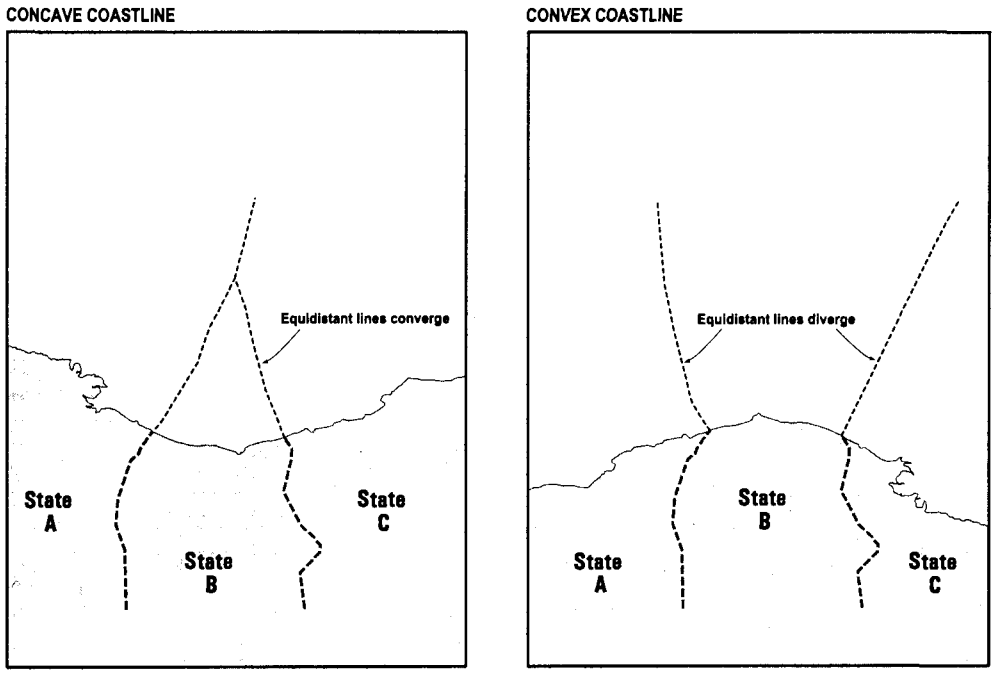

Illustration No. 1 [48]

[48] Illustration Nos. 1, 5, 6, 7, 9, 10, 11, 12 and 17 have been prepared by Scott B. Edmonds, Director of Cartographic Operations, The Boundary Litigation Group, A Division of MapQuest.Com, Inc., Maryland, United States of America.

144. The Court, faced with a concave coastline involving Germany, the Netherlands and Denmark, requested the parties to negotiate the delimitation of their respective continental shelves applying equitable principles in such a way as to avoid the cut-off effect of equidistance in the case. The following illustration shows: (a) the continental shelf of Germany that would have resulted from the application of equidistance sought by the Netherlands and Denmark (area comprised between points ACB); (b) the continental shelf claimed by Germany (area ADB); and (c) the continental shelf that was negotiated by Germany with the Netherlands and Denmark [49] following the judgment of the Court.

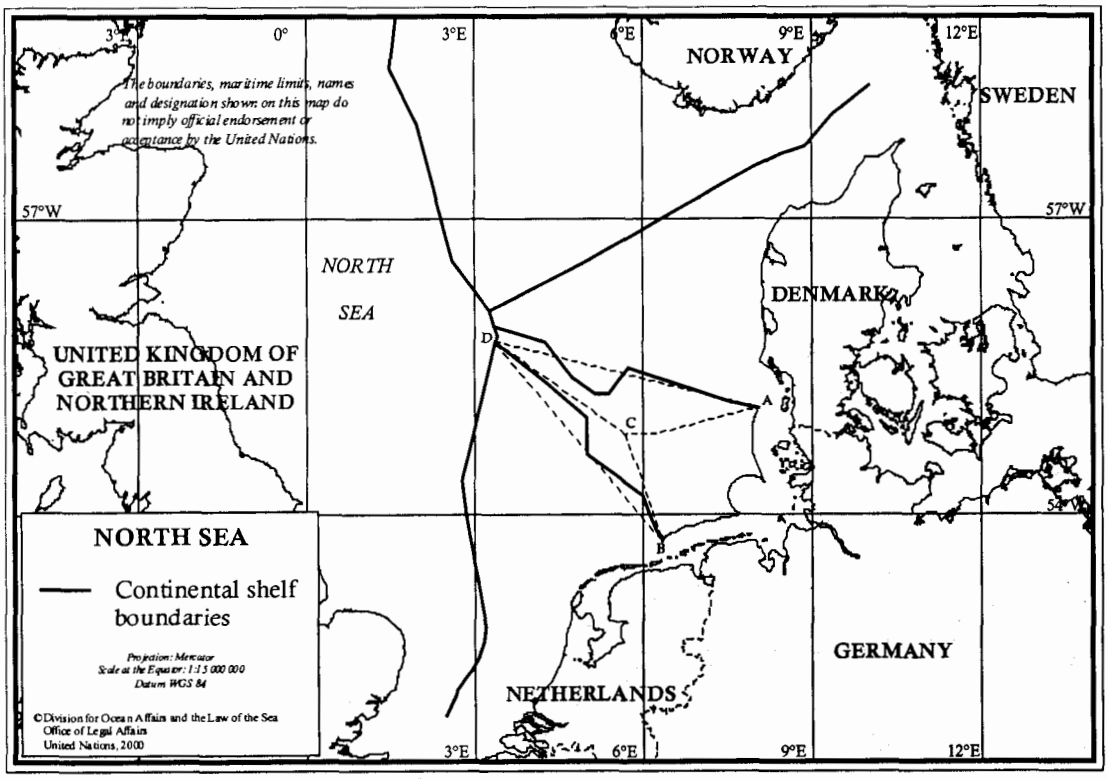

Illustration No. 2

145. Several other agreements - France-Dominica (1987), France-Monaco (1984) and Gambia-Senegal (1975) - have sought other solutions to avoid the cut-off effect produced by equidistance. Solutions to avoid the cut-off effect may consist in ensuring that the party affected may extend its

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[49] Agreement between Germany and the Netherlands of 28 January 1971; and Agreement between Germany and Denmark of 28 January 1971.

jurisdiction up to its maximum seaward limit, e.g. 200 nm. It may happen, though, that even in this case, a situation of "enclave" would be created. To avoid such a result, another technique may be used: the delimitation line or a part of it may eventually be defined as a rhumb line, [50] which would extend, explicitly or implicitly, beyond the outer limit of the areas under sovereignty or jurisdiction of one of the parties (e.g.12 nm, 200 nm, etc.) and it would be stipulated clearly that neither party could claim any rights on the other side of the line (see, *mutatis mutandis*, Agreement between Venezuela-Trinidad and Tobago (1990)).

(e) Basepoints

146. It must be pointed out that the case law on maritime boundary delimitation and the practice of States tend to support the view that the basepoints used to delimit maritime zones between two States do not necessarily have to coincide with the basepoints and straight baselines for measuring the breadth of the territorial sea adopted by the States themselves.

147. Baselines are especially relevant to tracing a strict equidistant line; such a line can be used as a point of departure for analysis or negotiation. However, it is often later adjusted to take into account the interests of equity and proportionality, for example by ignoring minor features whether or not they constitute part of the normal baseline or whether they represent points used for a system of straight baselines.

148. There are cases when one State does not recognize the straight baselines of the other State. In such situation, they may agree on using relevant basepoints on the latter State's coast in order to produce a delimitation line or a line which could lead to a compromise solution (see e.g., delimitation USA-Cuba (1977)).

149. A review of the case law shows that judges and arbitrators believe that they do not necessarily have to take into account the basepoints or baselines chosen by a State when drawing its maritime frontier with a neighbouring State. [51]

150. However, the importance of a duly established baseline should not be underestimated since the disputed or marginal area to which both parties are laying claim may also, in many cases, be affected by it.

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[50] "*Rhumb line*" or "*loxodrome*": a line on the surface of the earth which crosses all successive meridians at a constant angle. This line is represented as a straight line on the Mercator projection, which is usually used for nautical charts.

[51] Continental Shelf (Tunisia/Libyan Arab Jamahiriya) case, I.C.J. Reports 1982, p. 76, para. 104; Gulf of Maine case, I.C.J. Reports 1984, p. 332, para. 210; Libyan Arab Jamahiriya/Malta case, I.C.J. Reports 1985, p. 48, para. 64; Arbitration between United Kingdom and France 1977, in UNRIAA, vol. XVIII, p. 24, para. 19; Guinea/Guinea-Bissau case, Decision of 14 February 1985, in UNRIAA, vol. XIX, p. 184, para. 96.

151. Similarly, since relevant features, such as an island, islet, rock or low-tide elevation, may be regarded as creating its own territorial sea or legally capable of forming part of the straight baselines of a State's territorial sea, it does not follow that, for that sole reason, any such feature must be regarded as a suitable basepoint for drawing a line of delimitation between that State and another State whose coasts are adjacent or opposite. [52]

152. There are many examples in State practice in which those features have not been taken into consideration (see paras. 213 - 220), or have been given only partial effect (delimitation between France and Belgium (1990) concerning low-tide elevations). There are also examples in which every single feature possible (islands, rocks, low-tide elevations and drying reefs) has been given full effect as a basepoint (Delimitation between the Cook Islands and the United States (American Samoa) (1980)).

(f) Islands and rocks

153. In addition to the role of islands as part of the baseline system of States, their entitlement under the 1982 Convention to all maritime areas, including continental shelf and exclusive economic zone, as well as the entitlement of "rocks" (when they fall under the criteria established by article 121, paragraph 3, of the 1982 Convention) to a territorial sea only, contributed to the dramatic increase in the number and difficulty of potential delimitations.

154. In State practice, different considerations have been taken into account in the way islands have been treated. Moreover, the need for achieving an equitable result has influenced many of the maritime boundary delimitation agreements which were concluded in reducing the effect given to islands. Consequently, according to the circumstances of a specific maritime boundary delimitation, an island can be accorded full effect, or partial effect or it may be ignored. The practice of States provides many examples thereof.

155. Different factors may be taken into account when dealing with islands:

- Whether the delimitation involves only islands or islands against mainland coasts; or
- Whether the islands are the sole unit of entitlement or are entitled in conjunction with a mainland territory under the same sovereignty.

In any case it seems that the status of islands, as in the case of an island-State or a dependent territory, has not influenced the practice of States in this respect.

156. In general, as the practice of States shows, it is in the case of a delimitation between islands only, where full weight is given to them (Sao Tome and Principe and Equatorial Guinea (1999), etc.). There are also many examples in State practice in which islands have been given full weight as

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[52] Prosper Weil, "On the double function of baselines and basepoints in the law of the sea" in Essays in Honour of Judge Taslim Olawale Elias, (Martinus Nijhoff, 1992), vol. I, p. 156; see also pp. 145-162.

against mainland coasts, such as Sri Lanka-India (1974 and 1976); Denmark (Faroe Islands)-Norway (1979); and Cuba-United States of America (1977). In all these cases, the geographical situation is that of oppositeness and the equidistance method was particularly appropriate.

157. When other factors, such as the size of the islands and distance, come into play, as in the delimitation between Australia and Papua New Guinea (1978), islands can be given a reduced effect in a negotiated delimitation based on equidistance. In this particular case of delimitation, some small Australian islands lying within 3 and 4 miles from the coast of Papua New Guinea were accorded a very reduced effect. The solution adopted was to establish a simplified equidistant line on the landward side (where the coasts of the two parties faced each other) and a 3-nm-territorial-sea enclave on the seaward side of the Australian islands. The fishing rights of the islanders were preserved within a protected area.

158. In some situations, no effect has been granted to an island. For instance, the United Kingdom agreed in giving no effect to Rockall in its delimitation of the continental shelf with Ireland because of the huge disproportion it would have created. This situation of small islands has been underscored by the doctrinal writings: "*Generally, however, islands are discounted; the smaller the feature, the more limited a role (if any) it will play in the delimitation.*" [53]

159. In some other situations, no effect has been granted to an island because its sovereignty was disputed. This occurred, for instance, in the Iran-Qatar delimitation (1969), in which the island of Halul was ignored. In other cases, the delimitation agreement attributed sovereignty over a disputed island to one of the parties, which then paid the "price" of not giving the island any effect (India-Sri Lanka (1974)) or only partial effect in the final delimitation, as in the Agreement between Cuba and Haiti (1977). [54]

160. Islands have also been ignored in some instances because of the method of delimitation used. In general, the effect of islands is diminished when a method other than equidistance is utilized, such as in the Kenya-Tanzania (1975, 1976) or the Argentina-Chile Agreements (1978). These cases generally concern adjacent States, illustrating the greater potential for distortion of equidistance in situations of adjacency.

161. In the three different delimitation agreements concluded by Venezuela with the United States (1978), France (1980) and the Netherlands (1978), respectively, full effect was given to the "Isla

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[53] Jonathan I. Charney, "Rocks that cannot sustain human habitation", The American Journal of International Law, vol. 93, No. 4 (October 1999), p. 876.

[54] This was also apparently the solution adopted in the agreement concluded between Chile and Argentina in application of the Beagle Channel Arbitration and the mediation by the Holy See which conferred sovereignty over three disputed islands to Chile while giving them a very limited effect in the delimitation line adopted.

Aves", thus considering it as an island, legally speaking. Some other States [55] have protested those agreements on the basis that "Isla Aves" is, in their opinion, a "rock".

162. In an international litigation, effects given to an island were dependent, in most cases, on considerations of equity, in particular, the disproportionate effect of the island in the delimitation with regard to the length of its coastline - as in the arbitration Canada - France (Saint-Pierre-and-Miquelon) (1992), or in such cases as Tunisia - Libyan Arab Jamahiriya (Djerba Island and the Kerkennah Islands) (1982) and, most recently, the arbitration between Eritrea and Yemen (mid-sea islands, such as the Zubayr group of islands on the Yemen side and the Dahlak islands on the Eritrean side) (1999). It may be said, in general, that the Court and arbitral tribunals have given limited effect to islands in the delimitation cases they have been confronted with.

B. Geomorphological and geological factors of the seabed and subsoil [56]

163. Geomorphological and geological factors have been taken into consideration by the International Court of Justice and different arbitral tribunals in cases dealing with the continental shelf, although they had no direct bearing on the drawing of the delimitation line. In relation to those factors, the Court developed the principles of natural prolongation and non-encroachment and through different cases defined their scope of application (see paras. 104 - 115).

164. The practice of States shows a limited number of cases in which geomorphological factors have had a bearing on the drawing of the delimitation line adopted within the 200 nm, generally due to the presence of a trough separating, or claimed to separate, the submarine areas of the States involved. The two most important delimitation agreements in this regard are Australia-Indonesia (1972) and Australia-Indonesia (Timor Gap)(1989)) [57].

165. The geomorphological definition of the continental shelf had been taken into consideration during the negotiations of the Agreement between Australia and Indonesia (Timor and Arafura Seas) (1972). Indonesia followed the view that there was a single continental shelf between Timor and Australia and that it should be equitably divided by a line of equidistance. Australia held that there were two quite separate continental shelves separated by the deep Timor Trough in both morphological and geophysical senses. The Agreement eventually established a line in the zone between the line of equidistance, sought by Indonesia to the south, and the axis of the Timor Trough,

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55 "Oceans and the law of the Sea", report of the Secretary-General to the General Assembly at its fifty - second session (A/52/487), paras. 74-75.

56 See also Keith Highet, "The Use of Geophysical Factors in the Delimitation of Maritime Boundaries", International Maritime Boundaries (The American Society of International Law), J. I. Charney and L. M. Alexander eds., (Dordrecht, Boston, London; Martinus Nijhoff Publishers, 1993), vol. I, p. 163.

57 See note 13 on page 17.

sought by Australia to the north, although much closer to the axis of the Trough than to the median line. In other words, the geophysical factors substantially modified the equidistant line.

166. The 1972 Agreement between Australia and Indonesia left a gap to provide for the position of East Timor (Timor Gap). Following the annexation of East Timor by Indonesia in 1975, Australia and Indonesia were unable to agree on a final continental shelf boundary for Timor Gap. Instead, in 1989, they concluded a Treaty on the Zone of Cooperation in an area between the Indonesian Province of East Timor and Northern Australia which took into account the 1985 Judgment of the International Court of Justice (Libyan Arab Jamahiriya v. Malta). In the Treaty, they divided the area into three different cooperation zones. Geological factors influenced this Treaty since the northern limit of zone C was a simplified representation of the axis of the Timor Trough. [58]

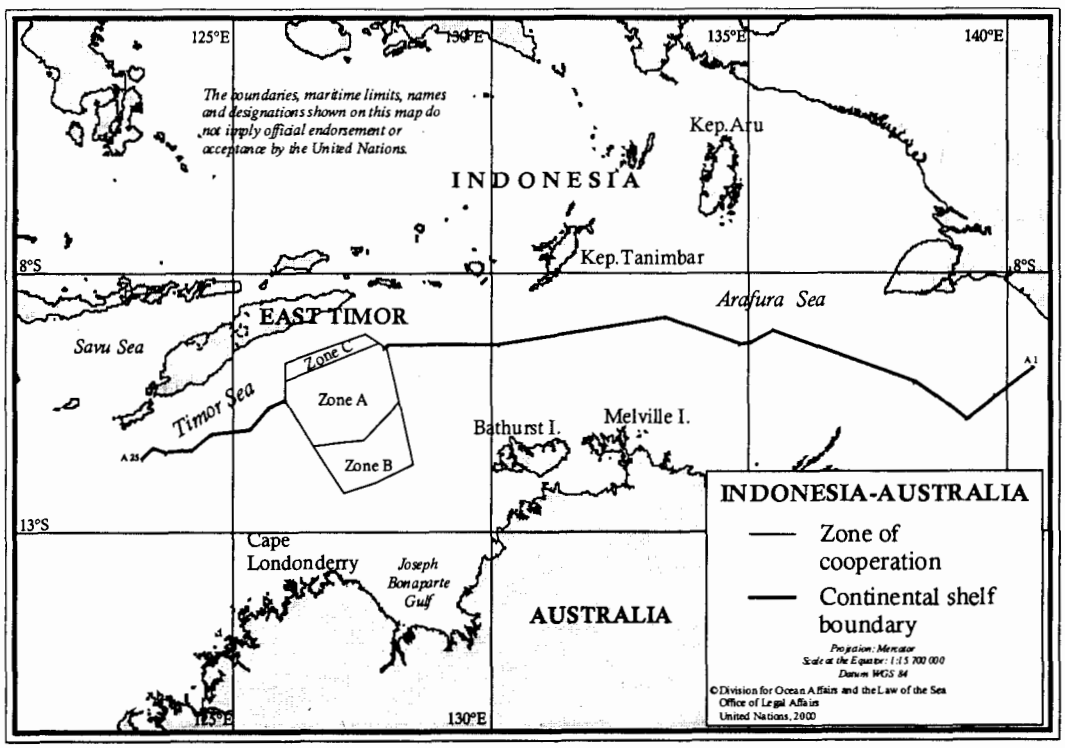

Illustration No. 3

167. There is one more case, where geophysical factors have directly influenced the drawing of the delimitation line within 200 nm. In the delimitation Agreement Netherlands (Netherlands Antilles) -

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58 See note 13 on page 17.

Venezuela (1978), the boundary is "*precisely appearing to follow the axis of the submarine trough which separates ... two islands from the mainland*". [59] Such factors were also generally taken into consideration in the Agreement Indonesia - Thailand (Andaman Sea) (1975), where the boundary was intended to reflect the shallower gradients of the seabed.

168. With regard to delimitation agreements beyond 200 nm, the practice of States provides many examples in which, of course, geophysical factors have been determinant, among them: Australia-France (New Caledonia) (1982); Australia-Solomon Islands (1988); Australia (Heard/McDonald Islands) - France (Kerguelen Island) (1982); and United Kingdom-Ireland (1988).

C. Economic factors [60]

1. Resources

169. In most situations, it may be considered that the main interests of States regarding the delimitation of maritime zones beyond the territorial sea, i.e., the continental shelf, the exclusive economic zone and the fishery zone, are related to the economic benefits to be derived from the exploitation of resources, living and non-living, in those maritime zones. Therefore, it is not surprising that, in addition to geographical and geophysical factors, so much attention has been placed by States on the location of resources in the areas to be delimited. In many cases, it is the presence of these resources which has been the driving force behind the negotiations and conclusion of a large number of maritime boundary delimitation agreements. [61]

170. These resources, in particular oil and gas deposits and fisheries, may affect the delimitation process principally in two different ways:

- Directly influencing the course of the delimitation line adopted; or
- As the object of an arrangement between the parties which facilitates the adoption of the delimitation line based on other considerations, such as geographical factors.

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[59] See J. I. Charney and L. M. Alexander, eds., International Maritime Boundaries, (The American Society of International Law) (Dordrecht, Boston, London, Martinus Nijhoff Publishers, 1993), vol. I, pp. 615-629.

[60] See also Barbara Kwiatkowska, "Economic and Environmental Considerations in Maritime Boundary Delimitations", International Maritime Boundaries (The American Society of International Law), J. I. Charney and L. M. Alexander eds., (Dordrecht, Boston, London, Martinus Nijhoff Publishers, 1993), vol. I, p. 75.

[61] Thus, concerns about the regime of hydrocarbons of the seabed under the high seas prompted the United Kingdom and Venezuela to negotiate the first delimitation agreement on submarine areas beyond the territorial sea (Gulf of Paria Treaty, 1942).

(a) Hydrocarbon resources

171. There are very few cases in which a delimitation line has been adjusted in order to follow the location of an oilfield, such as in the Bahrain-Saudi Arabia Agreement (1958), which followed in the last third of the line the location of the Fasht Abu-Sa'fah oilfield.

172. The question of mineral resources is dealt with by including in the delimitation agreement one or more provisions on cooperation between the parties for the exploitation of deposits straddling across the delimitation line. This solution may be adopted when there are already known deposits straddling the delimitation line or also in the case of potential future discoveries of such deposits. Resource-deposit clauses were included for the first time in the 1965 Agreement between the United Kingdom and Norway.

173. In its 1969 North Sea Continental Shelf cases, the International Court of Justice considered the question of deposits straddling the delimitation line, and after making reference to such examples as the 1965 the United Kingdom-Norway Agreement, concluded:

> *"The Court does not consider that unity of deposit constitutes anything more than a factual element which it is reasonable to take into consideration in the course of the negotiations for a delimitation. The Parties are fully aware of the existence of the problem as also of the possible ways of solving it. "* [62]

174. In addition to sharing-out the exploitation of a given oil or gas field straddling the delimitation line (resource-deposit clauses), the parties may also provide for further cooperation in the exploitation of any single straddling field in many different ways (unitization clauses).

175. In contrast to resource-deposit clauses and unitization clauses, joint development schemes, in which the parties provide for cooperative arrangements for the exploitation of a particular sea area (not just isolated fields), are normally defined by coordinates. Joint exploitation areas may be adopted in conjunction with a delimitation line (Iceland-Norway (1981)), or as a solution for the lack of agreement between the parties on the course of a delimitation line (Indonesia (Timor Gap)-Australia (1999)).

(b) Fisheries

176. The practice of States shows the importance of fisheries resources in a number of delimitation agreements. In particular, the accommodation of fisheries interests has played a role either as an element agreed to simultaneously before or after the maritime boundary delimitation settlement, or

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62 I.C.J. Reports 1969, pp. 51-52, para. 97.

as a measure undertaken pending the outcome. [63] For instance, the Agreement between Mexico and the United States of America (1976) was supplemented by a separate agreement on fisheries. Conversely, the signature in 1985 of a Fishing Agreement between Venezuela and Trinidad and Tobago was accompanied by the signature of three other joint declarations and documents, which contained a partial agreement on the delimitation line.

177. In some cases, as in the case of mineral resources, States have agreed on establishing common fishery zones straddling their delimitation lines. This solution seems even more appropriate regarding fisheries because of the non-stable nature of this resource. Joint fishing schemes have been put into place, for instance, in the Agreements between the Dominican Republic and Colombia (1978); Sweden and the USSR (1988); Italy and Yugoslavia (1979); and France (Corsica) and Italy (Sardinia)(1986).

178. The preservation of traditional (historic) fisheries is on many occasions one of the main concerns of States in the negotiation of a maritime boundary delimitation. This objective can be achieved simply by guaranteeing access to fisheries to traditional fishermen on both sides of the line (Agreement between India and Sri Lanka (Historic Waters 1974)).

179. Artisanal fisheries are a type of traditional fishery. In the 1999 Arbitral Tribunal Award in the Eritrea-Yemen case [64], the Tribunal held that Yemen had to continue to give access to Eritrean artisanal fishermen to the waters of the islands whose sovereignty had been awarded to Yemen. The Award pointed out that Yemen would be entitled to exclude all third parties, or subject their presence to licence, just as it might do in respect of Eritrean industrial fishing. The Tribunal added that, in addition to free access to and from the islands concerned, Eritrean artisanal fishermen were also entitled to enter the relevant ports, and to sell and market the fish there, as an integral element of the traditional fishing regime.

180. A joint fisheries zone may also be a solution for the absence of agreement on a particular delimitation line. The 1999 Agreement between the United Kingdom and Denmark (Faroe Islands), which resolves the long-standing maritime dispute between the two countries, provides a good example. In addition to establishing the continental shelf boundary, the Agreement defines a fisheries zone consisting partly of a line, which coincides with the continental shelf line, and a "special area", encompassing the large banana-shaped area previously subject to overlapping fisheries claims, in which both countries continue to enjoy fishing rights in accordance with the relevant provisions of the Agreement.

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[63] See B. Kwiatkowska, "Economic and environmental considerations in maritime boundary delimitations", International Maritime Boundaries (The American Society of International Law), J. I. Charney and L. M. Alexander, eds. (Dordrecht, Boston, London, Martinus Nijhoff Publishers, 1993), vol. I, p. 81.

[64] Award, Phase II of the Arbitration, 17 December 1999. See the web site of the Permanent Court of Arbitration, http://www.pca-cpa.org/ERYE2intro.htm.

181. A review of international case law shows that access to fishery resources may be considered at the final stage of the delimitation of the exclusive economic zone or the fishery zone in order to ensure that the delimitation does not entail *"catastrophic repercussions for the livelihood and economic well-being of the population of the countries concerned".* [65]

182. The International Court of Justice considered in its 1993 case concerning the Maritime Delimitation in the Area between Greenland and Jan Mayen that, since the median line was too far to the west for Denmark to be assured of an equitable access to the capelin stock, it required to be adjusted or shifted eastwards in order to ensure equitable access to the capelin fishery resources for the vulnerable fishing communities concerned.

2. Navigation

183. In some cases navigational concerns have been applied as directly relevant circumstances to determine the boundary line. This is in line with the classic solution in territorial sea delimitation of considering navigation as a special circumstance in order to modify an equidistant line, even though the passage of ships is guaranteed, in principle, by the right of innocent passage on both sides of the delimitation line. In these cases, the delimitation line is adjusted in order to take account of existing navigational channels, which normally follow physical facts of the seabed such as thalwegs, or are based , in general, on isobathic or depth measurement. [66]

184. In some cases, States may want to ensure that certain navigational routes are within their territorial waters, or at least outside the territorial sea of a neighbouring State. Also, a certain number of agreements are negotiated so that each party's vessels can travel to and from their ports on their own side of the line.

185. Several maritime boundary delimitation agreements establish the delimitation line in such a way that the routes of navigation to and from the main port of each country pass through the territorial sea of the State to which the port belonged, as in the Agreement between Italy and Yugoslavia (1975). Also, in the Agreement between Indonesia and Singapore (1973) on the territorial sea, the delimitation in a strait used for international navigation followed the deep-draft tanker route.

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65 I.C.J. Reports 1984, p. 342, para. 237; also referred to in I.C.J. Reports 1993, p. 71, para. 75.

66 Thus, these cases differ from those in which navigational guarantees are offered by the parties to each other but without affecting the actual delimitation line. For instance, in the Agreement between Argentina and Chile, 1984, the Argentine right of navigation to and from Antarctica through Chilean waters was specifically mentioned. See Treaty of Peace and Friendship signed between the Republic of Chile and the Republic of Argentina, signed at Vatican City on 29 November 1984, annex II, article 8. UNRIAA, vol. XXI, p. 263.

186. Regarding arbitral tribunals, the Arbitration Tribunal in the 1986 Guinea-Guinea Bissau case, seems to have followed the thalweg in its initial section so as to take into account the navigational interests of Guinea-Bissau. Likewise, the Agreement between Argentina and Chile of 1984 accepted the solution adopted by the arbitral tribunal in the Beagle Channel case, in which the equidistant line had been adjusted:

> *" None of this has resulted in much deviation from the strict median line, except . . . near Gable Island where the habitually used navigable track has been followed."* [67]

3. Socio-economic position of States

187. This factor refers to the question whether the respective general socio-economic situation of the States involved in the delimitation should affect the drawing of the line. There is no evidence, in the practice of States, that any State has obtained a greater share of maritime space because of its less favourable macroeconomic situation.

188. International jurisprudence has not accepted the economic position of the States concerned as a factor relevant to the delimitation process, the two main reasons invoked by international tribunals being that economic circumstances are extraneous to entitlement to maritime zones and that they lack the necessary degree of permanency to influence them.

189. In the 1982 Continental Shelf (Tunisia/Libyan Arab Jamahiriya) case, the International Court of Justice stated:

> *"In their pleadings, as well as in their oral arguments, both Parties appear to have set so much store by economic factors in the delimitation process that the Court considers it necessary here to comment on the subject."* [68]

The Court was of the view that these economic considerations could not be taken into account for the delimitation of the continental shelf areas appertaining to each party because:

> *"They are virtually extraneous factors since they are variables which unpredictable national fortune or calamity, as the case may be, might at any time cause to tilt the scale one way or the other. A country might be poor today and become rich tomorrow as a result of an event such as the discovery of a valuable economic resource..."* [69]

190. Moreover, in its 1985 Judgment in the Continental Shelf (Libyan Arab Jamahiriya/Malta) case, the Court also stated that it did not consider that a delimitation should be influenced by the relevant economic position of the two States in question, in such a way that the area of continental shelf regarded as appertaining to the less rich of the two States would be somewhat increased in order to

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67 Case concerning a dispute between Argentina and Chile concerning the Beagle Channel, Report and Decision of the Court of Arbitration (1977), p. 146, para. 110. See UNRIAA, vol. XXI.

68 I.C.J. Reports 1982, p. 77, para. 106.

69 Ibid., pp. 77-78, para. 107.

compensate for its inferiority in economic resources. Such considerations were deemed totally unrelated to the underlying intention of the applicable rules of international law. [70]

191. Furthermore, in its 1985 Award, the Arbitral Tribunal for the delimitation of the maritime frontier between Guinea and Guinea-Bissau, having summarized the positions of the parties, concluded that it had not been convinced that economic problems constituted permanent circumstances to be taken into account in a delimitation. Since the Tribunal's jurisdiction extended only to making a current assessment, it would be neither correct nor fair to base a delimitation on the evaluation of data which changed under the influence of sometimes uncertain factors. The Tribunal went on to state that it did not have the power to rebalance the economic inequalities of the States concerned by changing a delimitation which seemed to it to have been imposed by objective and certain considerations. [71]

192. Finally, in the 1993 Jan Mayen case, Denmark considered relevant to the delimitation the major differences between Greenland and Jan Mayen as regards population and socio-economic factors. However, the International Court of Justice concluded that in the delimitation to be effected in that case, "*there [was] no reason to consider either the limited nature of the population of Jan Mayen or socio-economic factors as circumstances to be taken into account*". [72]

D. Political and security factors [73]

193. The negotiation and adoption of a maritime boundary between two or more States is always political in nature. The review of agreed maritime boundaries very rarely shows in a clear way the role played by political factors in the drawing of a particular line. It is also difficult to isolate political factors that have been given consideration in a maritime boundary delimitation from other factors based on geography or the need to achieve an equitable solution. States rarely make public the political reasons behind the conclusion of their agreements, which are sometimes unrelated to the delimitation as such.

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[70] I.C.J. Reports 1985, p. 41, para. 50.

[71] Case concerning the delimitation of the maritime boundary between Guinea and Guinea-Bissau, Decision of 14 February 1985, pp. 193-194, paras. 121-123, in UNRIAA, vol. XIX.

[72] I.C.J. Reports 1993, p. 74, para. 80.

[73] See also Bernard H. Oxman, "Political, Strategic and Historical Considerations", International Maritime Boundaries, (The American Society of International Law), J. I. Charney and L. M. Alexander, eds. (Dordrecht, Boston, London, Martinus Nijhoff Publishers, 1993), vol. I, p. 81.

194. Among the political and security factors which could play a role are good-neighbourliness, foreign policy objectives, dispute avoidance, etc. For example, the 1978 Agreement between Argentina and Chile can be regarded, in view of the circumstances, as overwhelmingly political.

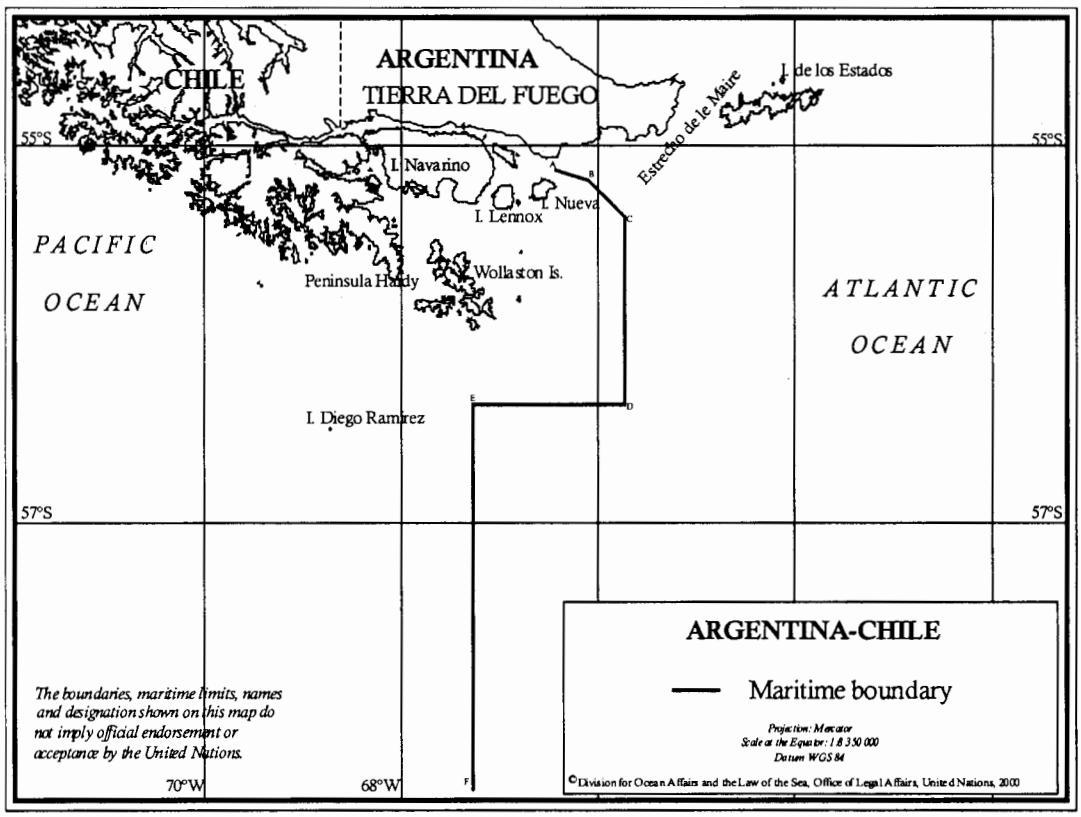

Illustration No. 4

195. Political considerations are also necessarily present when States attempt to resolve sovereignty disputes together with the delimitation of maritime spaces. Some agreements, for instance, assign the sovereignty over islands to one of the parties and simultaneously reduce, partially or completely, their effect in the delimitation (see also paras. 153 - 162). The Agreement between Argentina and Chile (1978) again provides a good example.

196. Security concerns are even more difficult to ascertain than political ones in the practice of States. There are no delimitation agreements that specifically refer to security concerns. The concept of security itself may be interpreted in different ways, as involving only military considerations or in a broader sense as comprising also access to resources, navigation, environmental concerns, etc.

197. In two cases before the International Court of Justice and an arbitral tribunal, respectively, security was interpreted as proximity to the coasts by two of the States pleading in those cases.

198. In response to these arguments, the Court, in the Continental Shelf (Libyan Arab Jamahiriya/Malta) case held that security considerations were *"not unrelated to the concept of the continental shelf"* although it did not take them into consideration in that case in view of the fact that neither party had raised the question whether the law attributed to the coastal State particular competences in the military field over its continental shelf. [74] Furthermore, the Court stated that the delimitation line resulting from the Judgment was "*not so near to the coast of either Party as to make questions of security a particular consideration in the present case*". [75]

199. A similar argumentation was used by the arbitral tribunal in the Guinea/Guinea-Bissau case:

> *"... the Tribunal, in the solution adopted, has ensured that each State controls the maritime territories situated opposite its coasts and in their vicinity. This preoccupation constantly guided the Tribunal in its search for an equitable solution. Its primary objective was to avoid one of the Parties, for any reason, seeing rights being exerted opposite its coasts and in their immediate vicinity, which could prejudice its right to development or jeopardise its security."* [76]

E. Other factors

1. Environment

200. In the Gulf of Maine case, the United States claim to all of Georges Bank was partly supported by a wide variety of ecological details relating to the marine environment; patterns of temperature and salinity in the water columns, statistics concerning fish spawning, schooling-patterns and feeding grounds were all said to reflect the "natural divisions" between Brown's Bank and Georges Bank. This attempt to demonstrate the existence of a natural boundary to be taken into account as a reference or as a basis for the drawing of the delimitation line of the exclusive economic zone or fishery zone did not find support in the Chamber of the Court, which based its decision mainly on geographic factors.

201. The Chamber held in the case that there were no "*geological, geomorphological, ecological or other factors sufficiently important, evident and conclusive to represent a single, incontrovertible natural boundary*". [77]

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[74] I.C.J. Reports 1985, p. 42, para. 51.

[75] Ibid.

[76] Case concerning the delimitation of the maritime boundary between Guinea and Guinea-Bissau, Decision of 14 February 1985, p. 194, para. 124, in UNRIAA, vol. XIX.

[77] I.C.J. Reports 1984, p. 277, para. 56.

2. Presence of third States

202. Many delimitation situations - almost half of them - involve overlapping claims by more than two States. Since maritime boundary delimitation negotiations usually include only two parties, special attention should be given to the presence of the coasts of third States and the existence of already agreed boundaries in the area to be delimited.

203. The Court has always preserved the right of third States when faced with the delimitation of maritime boundaries. For example, in the Continental Shelf (Libyan Arab Jamahiriya/Malta (1985)) case, the Court stated: "*[t]he limits within which the Court, in order to preserve the rights of third States, will confine its decision in the present case, may thus be defined in terms of the claims of Italy*".... [78]

204. In practical terms, this approach translates into ending the delimitation line before it reaches the area of overlapping potential claim by a third State, or at the point equidistant to the coast of the parties to the negotiations and the third State.

205. The practice of States is mixed with regard to the treatment given to third States in delimitation agreements. In some cases, the position of a third State with respect to the delimitation was not taken into account, such as that of Malta in the delimitation between Italy and Tunisia.

206. There are cases in which agreements have been concluded so as to influence a boundary with a third State. For instance, the Agreement between Colombia and Honduras (1986) seems to support the Colombian claim of the 82° W meridian maritime boundary with Nicaragua.

207. When the parties in a negotiation have been willing to take into account the presence of a third State, one solution used in some cases consists in ending the agreed line at the point equidistant from both the coasts of the parties in the agreement and the third State concerned, such as in the United States-Cuba Agreement (1977), which took account of the position of Bahamas. The Agreement between Colombia and the Dominican Republic (1978) followed this approach with respect to Haiti, which then used the equidistant tripoint in its delimitation with Colombia (Haiti - Colombia (1978)). The practice of States also shows some examples in which the agreed line stops short of the equidistant point with a third State (Agreement between Spain and Italy (1974)).

208. A variant of this approach concerns cases in which one of the parties is involved in a delimitation in a sovereignty dispute with a third State. In these cases, the delimitation line may be corrected in order to avoid involving the other party in the agreement in the sovereignty dispute.

209. Another technique consists in consulting the third party during the negotiations, such as in the Agreement between Denmark and Norway (1995), where the parties agreed to consult Iceland in order to avoid controversies. However, such a consultation did not constitute a "multilateralization"

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[78] I.C.J. Reports 1985, pp. 26 and 28, paras. 22-23.

of the negotiations and, in any case, there is no obligation to "multilateralize" negotiations on maritime boundary delimitation. It is important to stress that such a step may even, in some cases, jeopardize a difficult and sensitive bilateral negotiation.

210. Nevertheless, in some cases, it has been possible to negotiate an agreement between all the parties involved. This is the case, for example, of the trijunction Agreement between Poland, Sweden and the USSR (1989), or the trijunction Agreement between India, Sri Lanka and the Maldives (1976).

211. One way to deal with overlapping claims to maritime zones may be through regional solutions, especially in the case of enclosed or semi-enclosed seas. In this regard, it should be noted that the bordering States of the Gulf of Guinea met in Gabon on 19 November 1999 and decided to create the Gulf of Guinea Commission, which is expected to serve as a framework for consultation, coordination, harmonization and cooperation in the subregion, particularly as regards exploitation of natural wealth in the Gulf of Guinea. The final communiqué of the meeting stresses that the Heads of State "welcome the existence of agreements on the delimitation of maritime boundaries between certain member States, and encourage the inclusion of others, in order to put an end to actual or potential territorial disputes". [79]

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[79] See United Nations document A/54/636 - S/1999/1201 of 29 November 1999.

CHAPTER 4. METHODS APPLICABLE TO MARITIME BOUNDARY DELIMITATION

A. Equidistance

212. The equidistant line is defined in article 12 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone and article 15 of the 1982 Convention as "the line every point of which is equidistant from the coastlines from which the breadth of the territorial sea of each two States is measured". The 1958 Geneva Convention on the Continental Shelf contains a similar definition, which differentiates between States with adjacent coasts and States with opposite coasts, for which it uses the term "median line" although, technically speaking, such a line is also an equidistant line

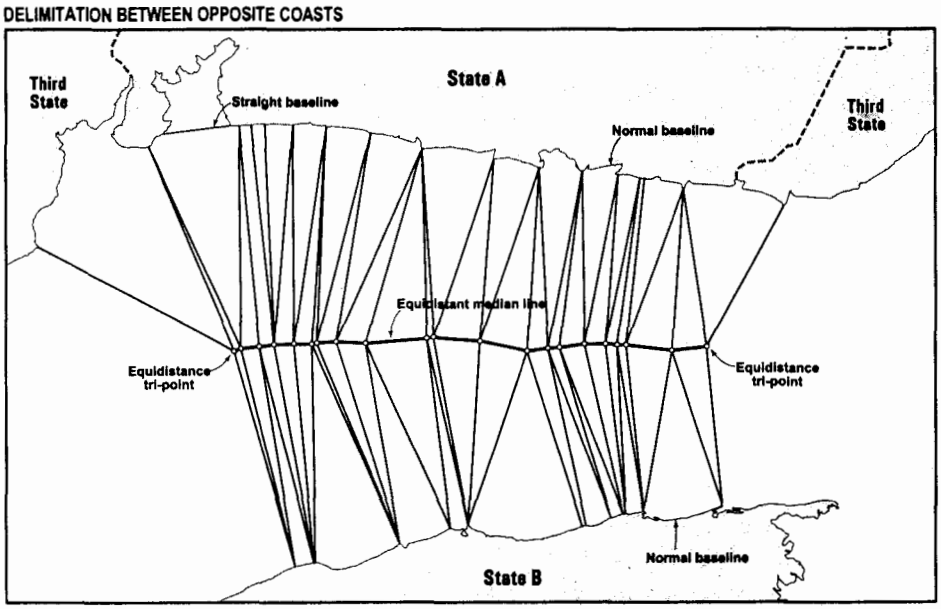

Illustration No. 5

DELIMITATION BETWEEN ADJACENT COASTS

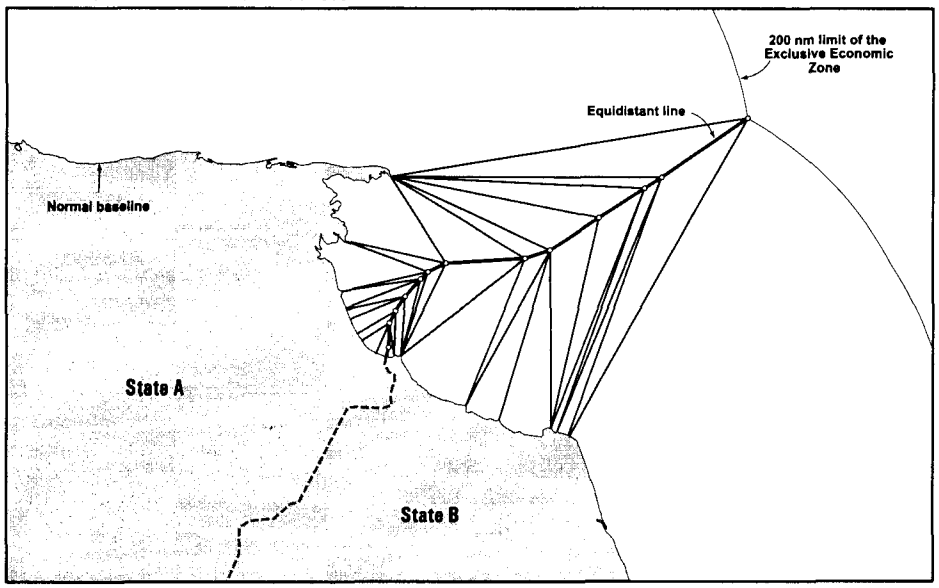

Illustration No. 6

213. A strict equidistant line, which would take into account all coastal basepoints permitted under international law, would result, in a vast majority of cases, in a complex and unpractical line made of a multiplicity of turning points and short straight-line segments. One of the very few examples of delimitation agreements based on strict equidistance is the Agreement concluded between Spain and Italy (1974) on the delimitation of the continental shelf.

214. Rather than using a strict equidistant line, States, when applying the equidistance method, usually resort to a simplified equidistant line by simply reducing the number of basepoints or turning points (once the line is drawn) to be taken into consideration. Typically, these simplified lines of equidistance do not result in any significant difference regarding the net area of maritime space attributed to each State involved in the delimitation.

SIMPLIFIED EQUIDISTANCE

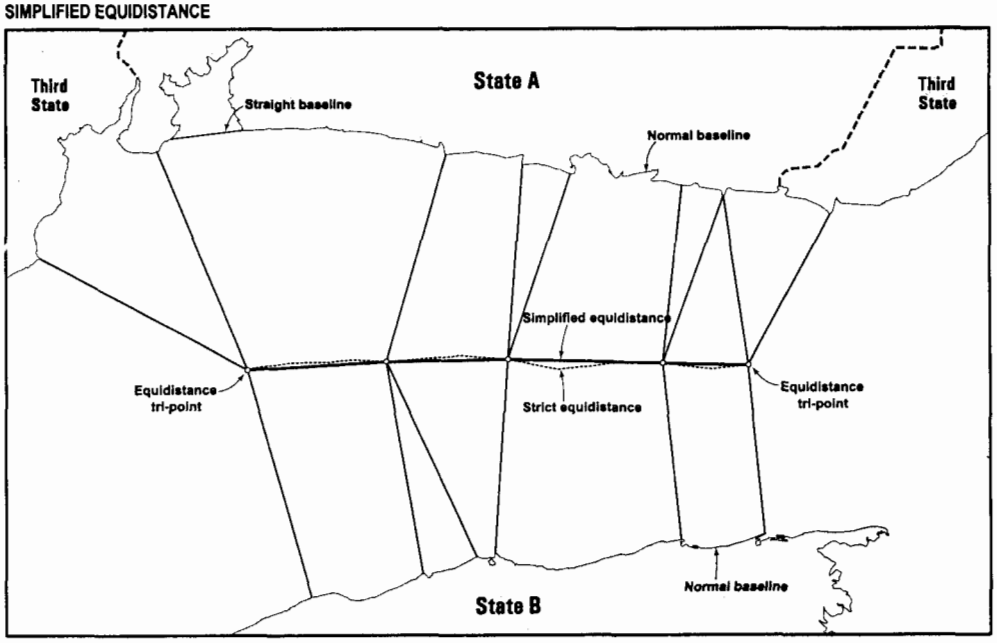

Illustration No. 7

215. See, for example, the Agreement between Mexico and the United States of America (1978):

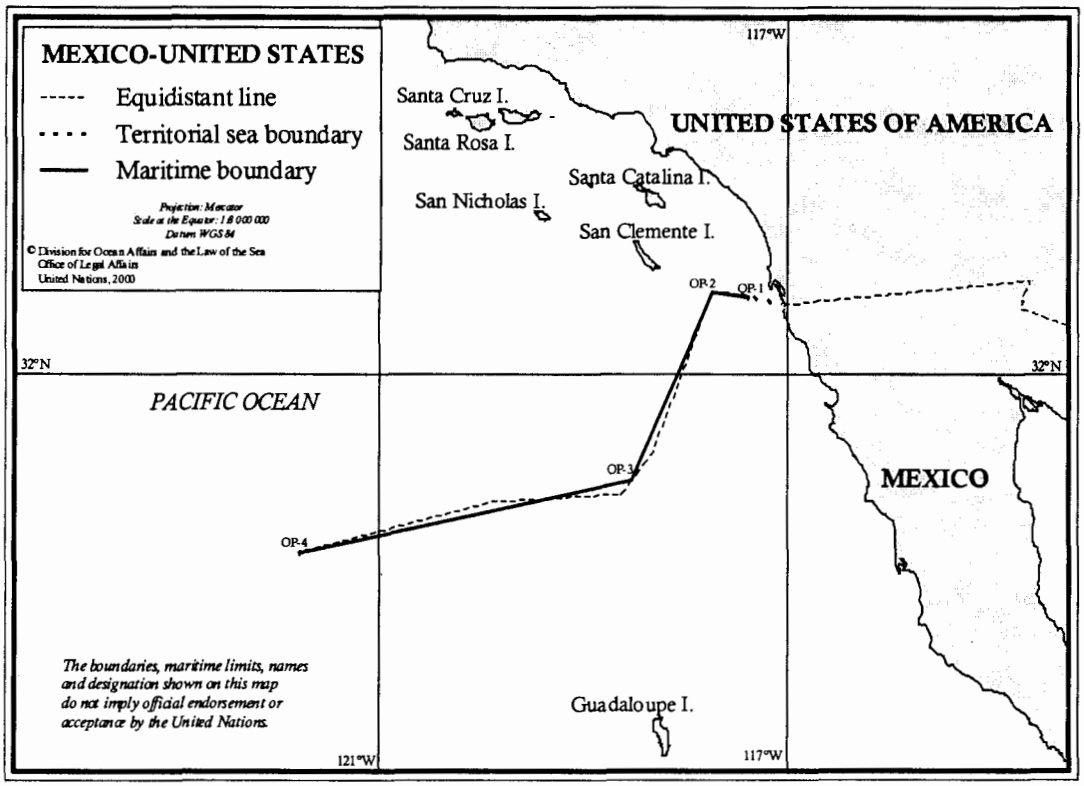

Illustration No. 8

216. A third application of the equidistance method is "adjusted or modified equidistance". A modified equidistant line is an equidistant line, whether strict or simplified, in which certain relevant geographical features have not been accorded their full potential effect in accordance with their legal entitlement. The purpose of the modified equidistant line is not, as seen above, to simplify the line while keeping roughly the same distribution of net maritime space between the States concerned, but rather to modify the effect of some geographical features, in certain situations, based on considerations of equity or on other considerations. This method may be applied to different geographical features such as relevant basepoints, low-tide elevations, rocks and islands, and will result in practice in according no effect or partial effect to any of those features in proportions which may vary.

217. Typical examples of modified equidistance are provided by those delimitation cases involving islands located on the "wrong side" of the equidistant line. The following illustrations show the effect that these islands may have, both in the case of a frontal delimitation and in the case of an adjacent delimitation.

218. Based on the examples provided below, the following illustrations depict some of the different ways to treat these islands in relation to the equidistance method: full effect (Illustration Nos. 9 and 11); partial effect (in the examples provided, half-effect) combined with enclaving (Illustration Nos. 10 and 12):

EQUIDISTANCE GIVING FULL-EFFECT TO ALL ISLANDS

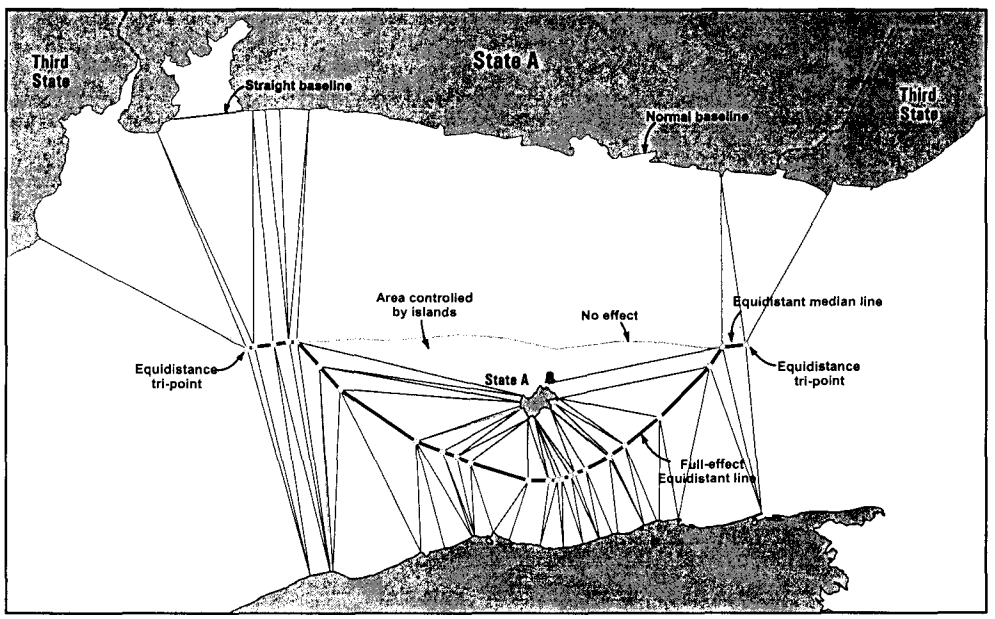

Illustration No. 9

EQUIDISTANCE GIVING HALF-EFFECT TO ALL ISLANDS

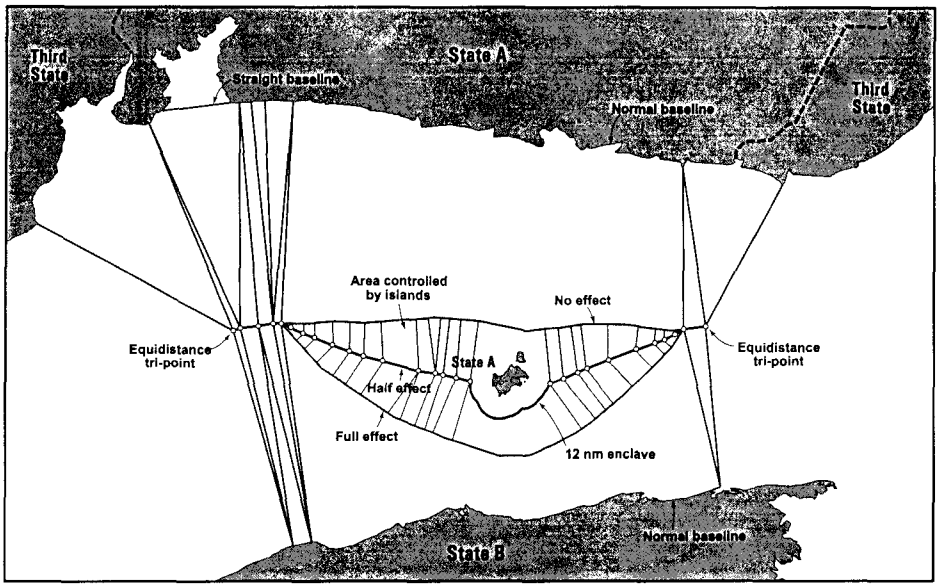

Illustration No. 10

EQUIDISTANCE GIVING FULL-EFFECT TO ALL ISLANDS

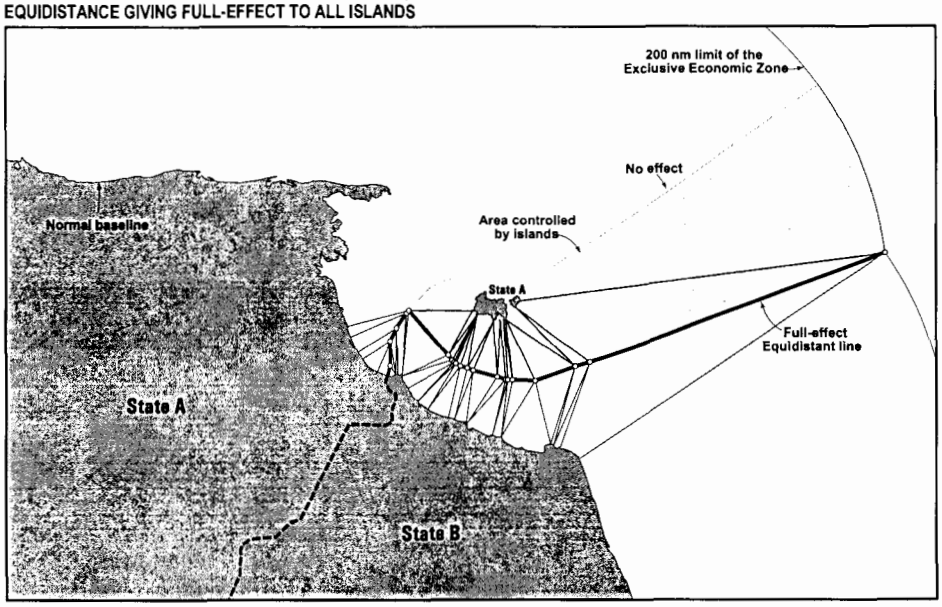

Illustration No. 11

EQUIDISTANCE GIVING HALF-EFFECT TO ALL ISLANDS

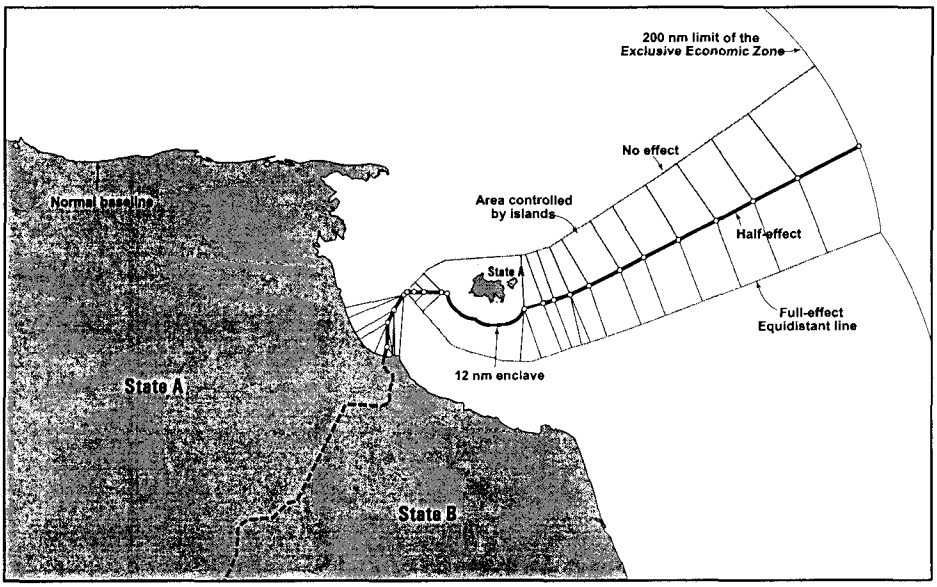

Illustration No. 12

219. Another way of modifying a line of equidistance is ignoring certain basepoints, as was done, for instance, in the Agreements between Iran/Qatar (1969) and Denmark/Canada (1973).

220. If there is a delimitation which epitomizes all the possibilities of modified equidistance (except as regards islands on the "wrong" side of the line), it is the delimitation between Yemen and Eritrea established by the Arbitral Tribunal in its Phase II Award of 17 December 1999. [80] In this case, the arbitral tribunal disregarded, in the first segment of the maritime boundary (turning points 1-13), basepoints on both sides of the line as well as the mid-sea Zubayr group of islands and the small island of Al-Tayr on the Yemen side in order to establish a modified equidistant line between the two mainlands. Then it shifted the line westward in order to take account of the Yemen Zuqar-Hanish group of islands so that the line would run at 12 nautical miles from them (turning points 13 - 15). From there, it followed an equidistant line between the islands mid-sea of both States (Eritrean Mohabbakah Island and Yemen Zuqar-Hanish Islands)(turning points 15-21). Finally, the Tribunal concluded the line with a modified equidistant line between the remaining parts of the mainland of both States (turning points 21-29).

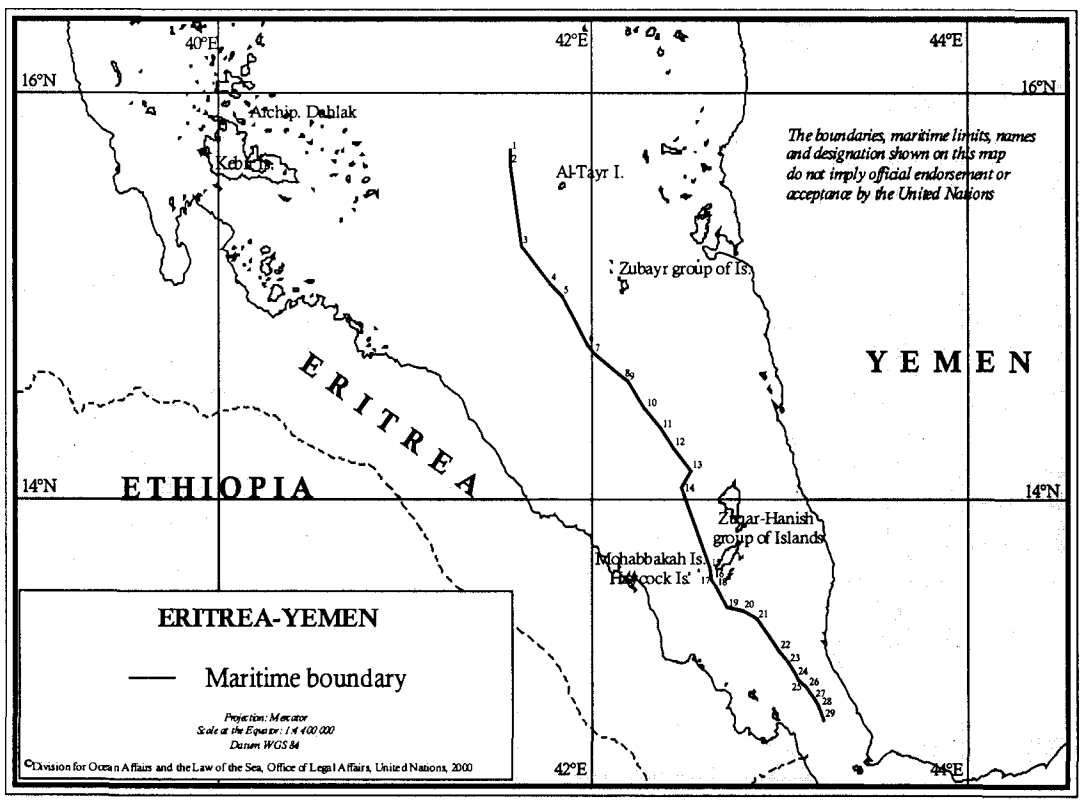

Illustration No. 13

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[80] Award, Phase II of the Arbitration, 17 December 1999. See the web site of the Permanent Court of Arbitration, http://www.pca-cpa.org/ERYE2intro.htm.

B. Perpendicular lines

221. This method of constructing the delimitation line consists of drawing a perpendicular line to the coast or to the general direction of the coast. In this sense, it is a very simplified version of the equidistance method that can be used in combination with other methods or on its own. As stressed above, it is important that the parties agree precisely on the sector of the coast to be considered in this process. One may expect that its length would normally vary in relation with the expected extension of the delimitation line itself: the farther from the coast its ending point, the lengthier should be the coastline to be taken into account. A good example of the application of this method is provided by the Agreement on the delimitation of maritime areas between Uruguay and Brazil (1972), which involved an almost straight coastline leaving no room for disagreement as to its general direction.

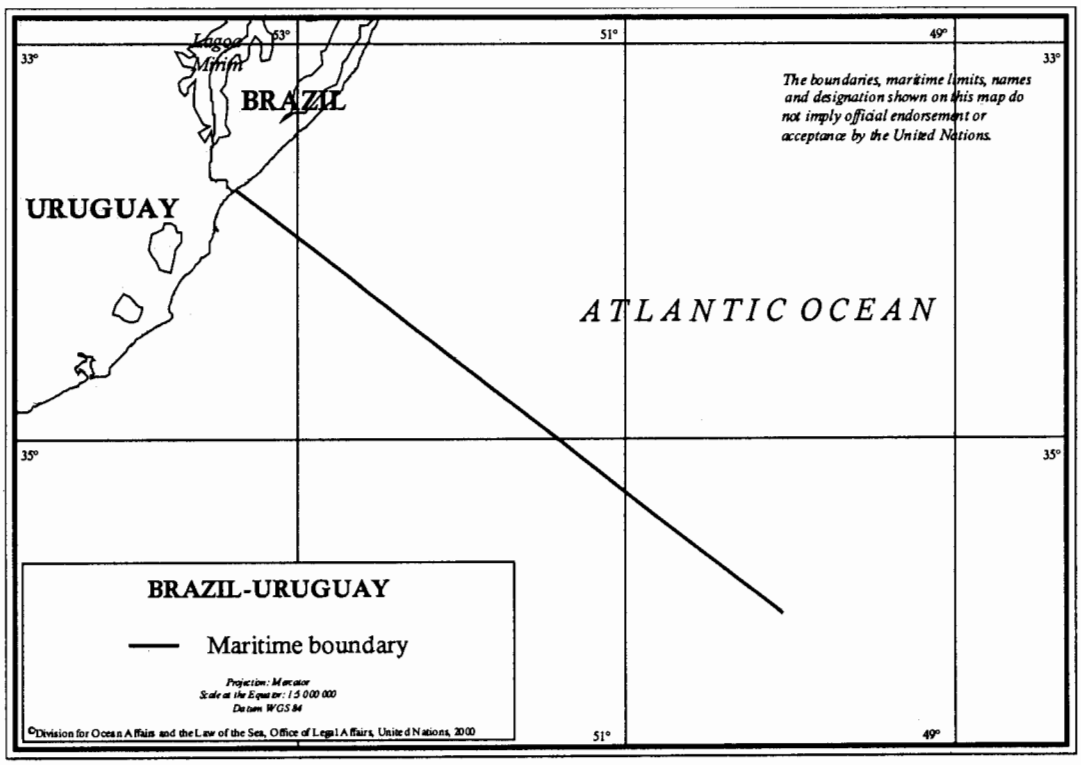

Illustration No. 14

222. In the case of the Arbitral Award in the Guinea-Guinea Bissau case [81], the method of perpendicularity was applied to the large seaward segment of the maritime boundary.

C. Meridians and parallels

223. Another method uses parallels of latitude and meridians of longitude to draw the delimitation line. It has generally been used by adjacent States in the form of a delimitation line following the parallel, as in the Agreement between Peru and Chile (1952), or the meridian in the Agreement between Portugal and Spain (1974), [82] at the point where the land frontier reaches the sea.

224. This method can also be combined with other methods of delimitation, such as equidistance. There are several examples in which States have followed the equidistant line in areas closer to the coast and then continued along a parallel or meridian to complete the delimitation line (Colombia-Panama (1976), Kenya-Tanzania (1975 - 1976)). Examples of the use of parallels and meridians combined with a variety of other methods can also be found (Netherlands-Venezuela, (1978); Trinidad and Tobago –Venezuela, (1990)).

225. The method of parallels and meridians provides many advantages, such as simplicity and avoidance of the cut-off phenomenon in some instances; nevertheless, it is not widely used owing to the fact that, in many cases, such advantages do not sufficiently outweigh the disadvantages of producing inequitable results.

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81 In UNRIAA, vol. XIX.

82 Not in force.

226. A particular application of this method consists of combining meridians and parallels so as to achieve a sort of equidistant line such as the one achieved in the delimitation of the continental shelf between the United Kingdom and Ireland (1988).

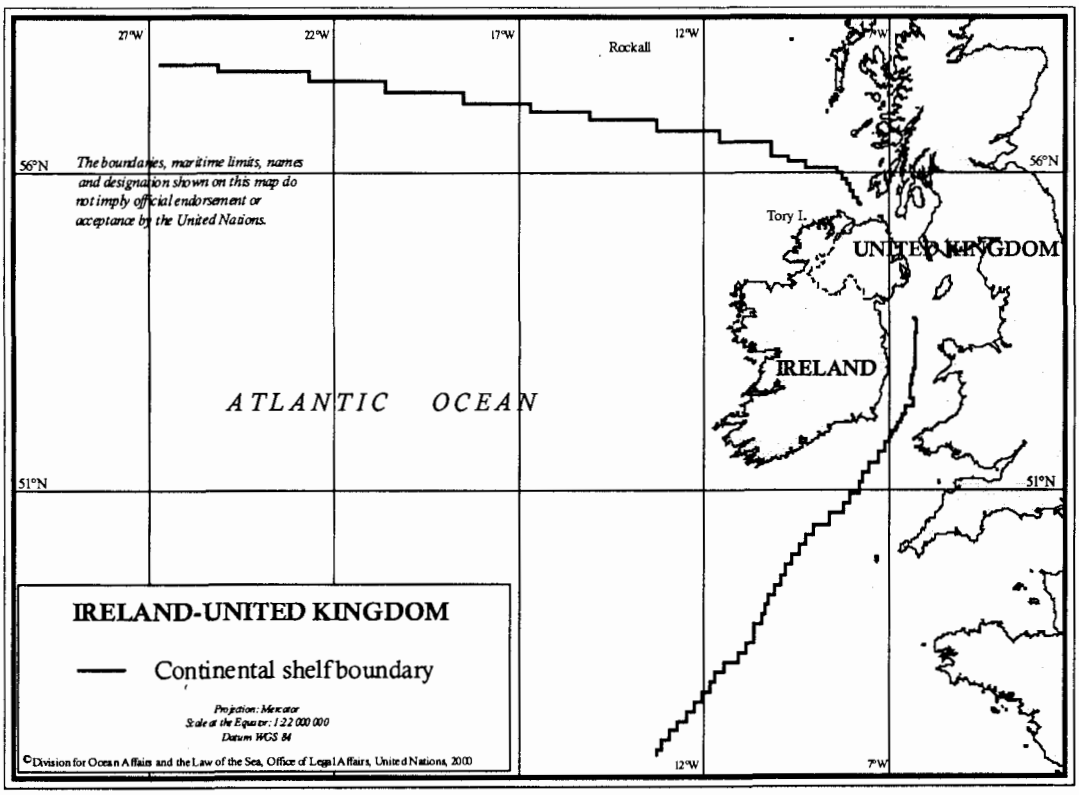

Illustration No. 15

227. Another example of the combined use of parallels and meridians is provided by the Caribbean part of the maritime boundary established by the Agreement between Colombia and Panama (1976).

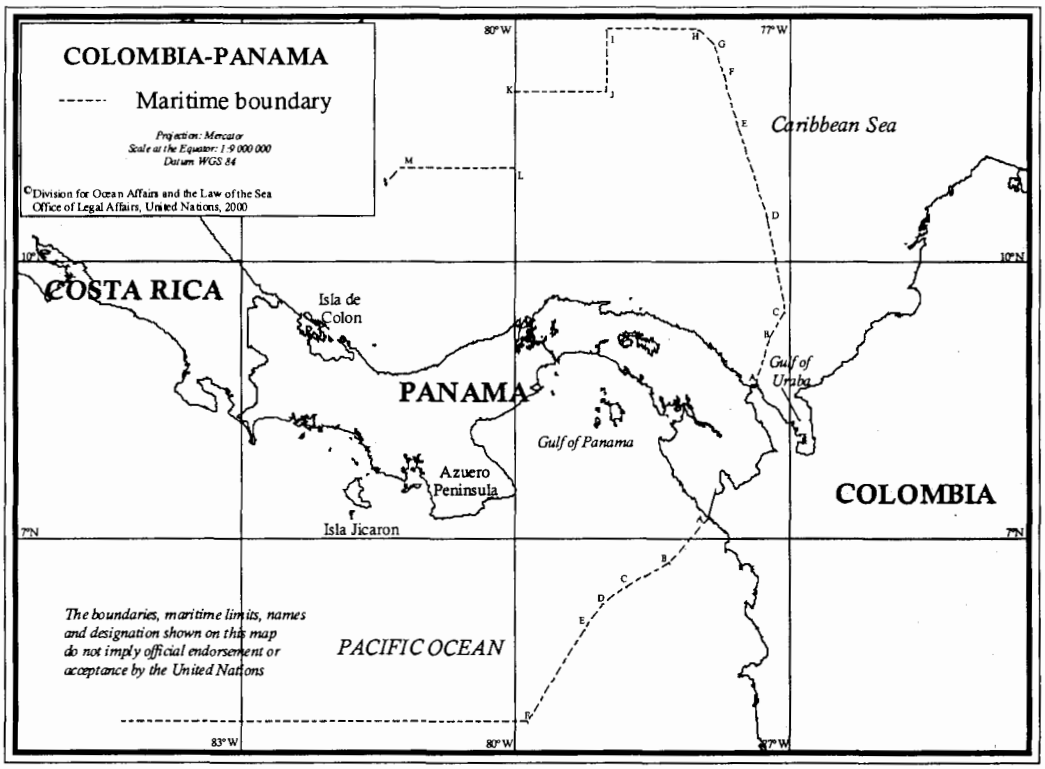

Illustration No. 16

D. Enclaving

228. Enclaving occurs when no effect or partial effect are given to an island. In such cases, though, as the maritime jurisdiction of such island cannot be denied, a maritime belt of a certain breadth is drawn around that island by means of a line made of arcs of circles drawn from the most seaward basepoints. The breadth of this belt may vary considerably: in some cases, such belt is even less than 12 miles in width.

229. Basically, two situations may be observed: first, the "full enclave", where the maritime belt of the island is completely isolated; second, the "semi-enclave", where the maritime belt of the island is partially connected to the maritime area under the sovereignty or jurisdiction of the same State. This method may be used independently or in conjunction with some other method of delimitation.

230. Semi-enclaves occur mainly when the islands are situated close to the equidistant line drawn without taking account of the islands concerned.

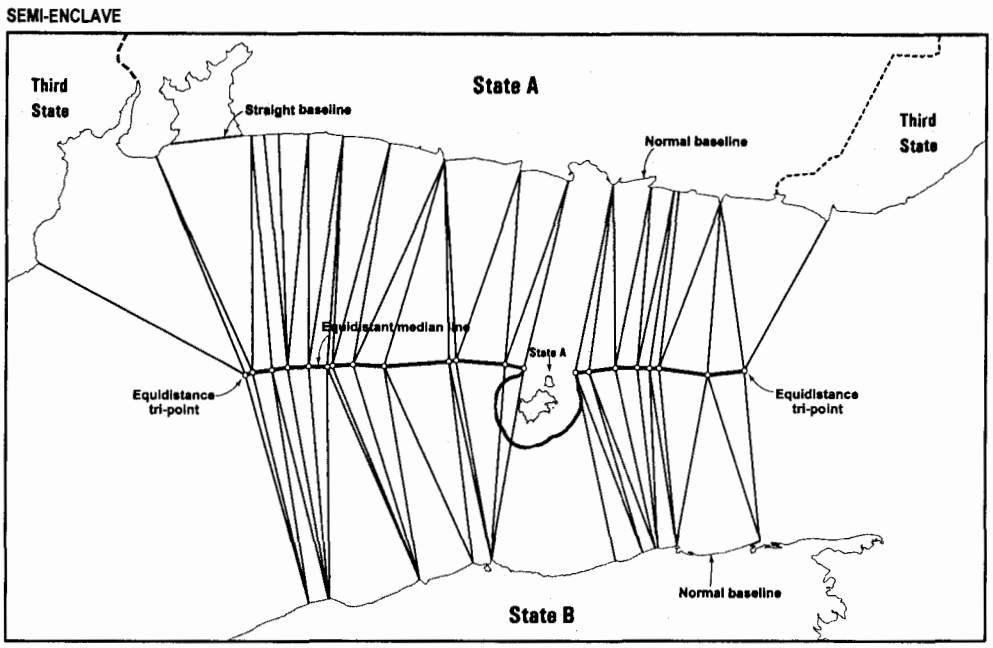

Illustration No. 17

231. Most of the existing cases in the practice of States reflect this situation. They normally involve the delimitation of the continental shelf in which either a 12-nautical-mile or a 13-nautical-mile belt has been attributed to these kinds of islands. The Agreement between Italy and Tunisia for the delimitation of their respective continental shelves (1971) provides an example in which both the 12-nautical-mile and the 13-nautical-mile belts were attributed to different islands belonging to Italy.

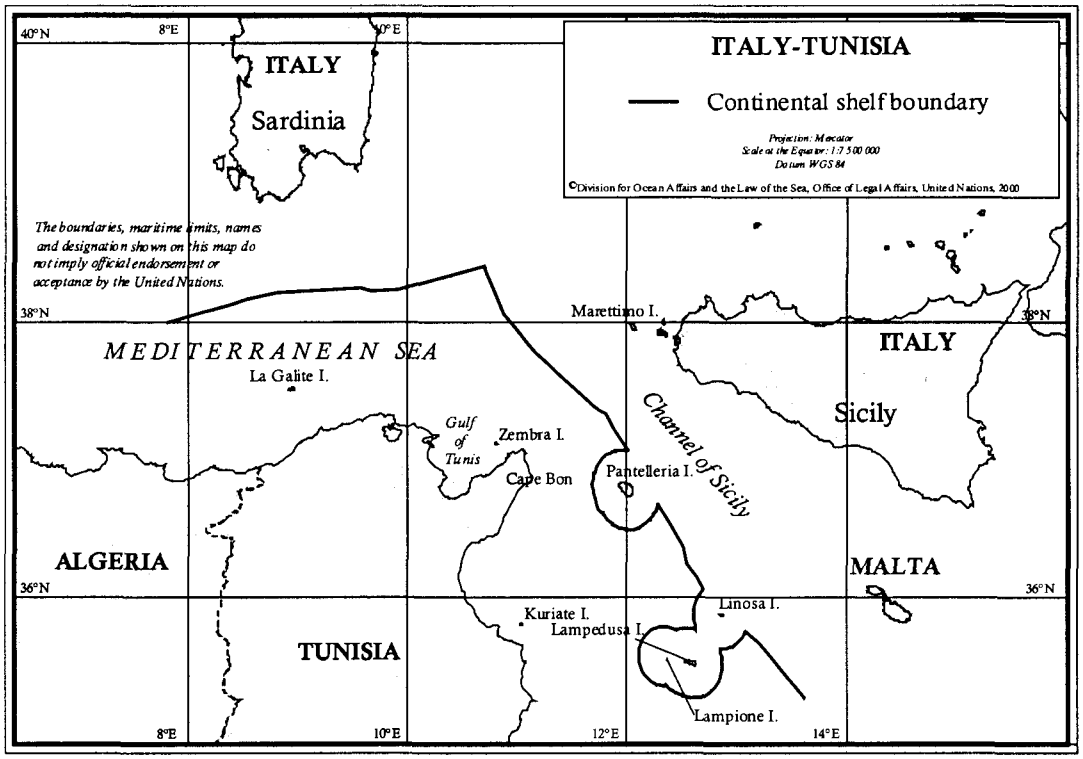

Illustration No. 18

232. The practice of States also provides examples of enclaving being used in conjunction with the method of parallels and meridians, such as in the delimitation Agreement concluded between Honduras and Colombia (1976).

233. The second category of enclaving results from situations in which even when the maximum extension of jurisdiction to which a State is entitled is fully recognized in the delimitation agreement, the areas under sovereignty or jurisdiction of that State are still enclaved in the corresponding areas of another State (e.g. France/Dominica (1987)).

E. Parallel lines (Corridor)

234. "Parallel lines" and "corridor" do not differ greatly. Reference has been made to the method of parallel lines, which consists of using "two parallel straight lines producing a long narrow band of maritime space" in order to avoid "the cut-off effect produced by the convergence of equidistant lines in front of the coast of one of the parties". This method is based on considerations of equity; it has been used in two Agreements concluded by France (France/Monaco (1984) and France/Dominica (1987)) and in the Gambia-Senegal (1975) Agreement.

235. The Arbitral Tribunal in the delimitation between France (Saint-Pierre-et-Miquelon) and Canada, after enclaving the islands, established a 10.5-mile-wide corridor in the southern sector of the delimitation extending up to a distance of 200 nautical miles from the islands. Although based on considerations of equity, this solution was adopted to take into account the disproportion in length of the respective coastlines, not for preventing the cut-off effect of equidistance.

F. Other means of achieving a delimitation line

236. The final delimitation line obtained through a negotiation or before a court or a tribunal will result in most cases from the application of one or several of the methods described above, corrected, if necessary, by equitable principles such as proportionality, or non-encroachment (see paras. 104 - 115).

237. Nevertheless, a delimitation line can also be achieved without any of the methods referred to in this chapter. For instance, the International Court of Justice, in the 1982 Continental Shelf (Tunisia - Libyan Arab Jamahiriya) case, constructed the first segment of the delimitation line based on a line that, in the view of the Court, was being applied de facto by the parties.

238. Also, the parties in a bilateral negotiation may establish a delimitation line, which is not the result of applying or modifying any particular method or the method may not be specifically identified. The parties may do so either because they consider that line equitable or based on political concessions alien to the notion of equity. An example is to be found in the delimitation between Venezuela and the Netherlands Antilles (Aruba, Curaçao, Bonaire) (1978) where two convergent rhumb lines reflect the relative weight given to the islands without falling into a situation in which they would be enclaved in Venezuelan waters. Another example of a politically based delimitation is provided by the delimitation Agreement concluded between Iceland and Norway (Jan Mayen) (1981), in which the full weight (200 nautical miles from the basepoints) was accorded to Iceland.

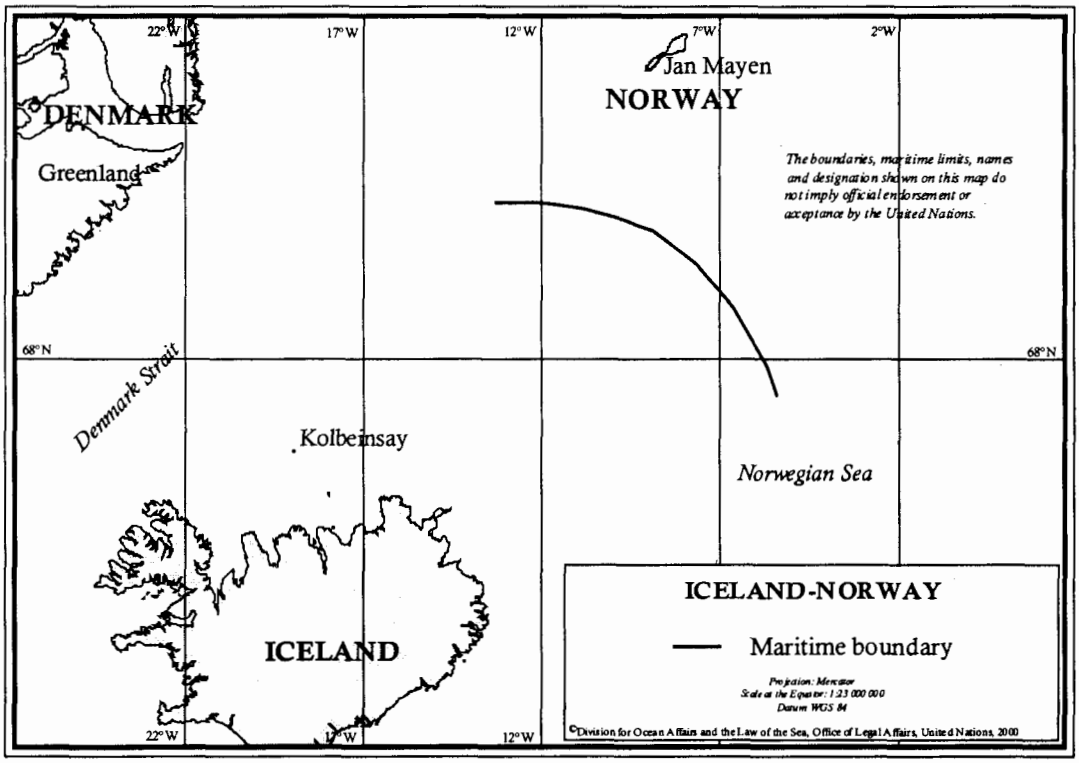

Illustration No. 19

CHAPTER 5. PRACTICAL ASPECTS OF THE NEGOTIATIONS

239. Negotiating the delimitation of maritime boundaries requires multidisciplinary expertise covering the political, legal and technical fields. At all stages of such negotiations, from the preparatory work to finalizing the agreement, a great deal of attention should be given to the practical aspects. This chapter highlights certain important points which parties may want to keep in mind. [83]

240. In this context, it may be useful to summarize and highlight again several important points:

- The process of delimitation usually starts with an acknowledgement that there are potentially overlapping maritime claims between two States with adjacent or opposite coasts requiring the establishment of a maritime boundary;
- The process of delimitation may also be initiated by certain important requirements of both an economic and a political nature (e.g., pressure by the oil industry for delimitation of maritime boundaries to establish legal certainty for companies' operations, or pressure by from fishermen and/or commercial fisheries);
- Therefore, before starting the negotiation, it is advisable to examine the overall maritime policy and identify its key elements from the legal, geographic, economic and historical points of view;
- Priorities should be established with a view to achieving a comprehensive and consistent negotiating position;
- Any studies related to those requirements, if necessary, can be conducted independently before engaging in preparatory negotiations.

A. Preparing for negotiations

241. The degree of success achieved in negotiating a maritime boundary delimitation is usually directly proportional to the quality and depth of the preparatory work undertaken by the coastal State. Accordingly, the following steps within the framework of the preparatory work are worthy of mention:

- Setting up the negotiating team; deciding on its composition; providing for its mandate and instructions; providing for the discussion of negotiating strategies;
- Gathering of information and preparation of documentation;
- Gathering of additional information, such as field data and other data, as appropriate;
- Acquisition of technical equipment and of software aiding maritime boundary negotiations;
- Assessment of financial implications.

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[83] A great number of practical aspects and a great deal of preparatory work dealt with by this Chapter are relevant *mutatis mutandis* to the preparation for the settlement of disputes (see Chapter 7) in case the parties are not in a position to reach an agreement within a reasonable period of time.

242. Among other issues to be kept in mind at the preparatory stage are:

- Decisions concerning the level, location and timing of the negotiations;
- Issues of publicity (press coverage); and
- Need to establish an atmosphere of trust and good will.

243. Indeed, the preparation for the delimitation by agreement is in many ways different from and more demanding than the preparatory work for other types of bilateral negotiations. A number of geographical, historical, political, legal, economic and other facts concerning the maritime boundary delimitation and the particular area to be delimited should be collected as part of the preparation for the maritime boundary delimitation negotiations (see chapter 3 above). Usually, all basic elements are dealt with during the initial national policy assessment, which generally involves a restricted circle of policy makers and senior government officials. A mandate for negotiations resulting from such an assessment should be a strong indicator as to what needs to be done during the preparatory phase.

B. Negotiating team and its instructions (mandate)

244. The multifaceted nature of delimitation requires that a national team be composed of experts in various fields, representing, to a practicable degree, relevant governmental agencies, according to the competencies assigned to them. In this context, it is important to note that having relevant ministries, government departments and other agencies represented in the team, or at least consulted and involved in the negotiating process, should facilitate this process as well as implementation of results once they are agreed upon. Moreover, this preparatory stage seems to be the most appropriate time during which any problems could be clarified and conflicting interests resolved. Otherwise, the existence of such "household" problems may weaken the negotiating position, especially if they emerge later, at more delicate stages of the bilateral negotiations. Each team member should be assigned a specific task for which maximum use should be made of his/her skills in his/her respective area of competence.

245. The negotiating team should begin to be set up as early as possible. There is some advantage for the members of the team if they are involved in the early stages of the preparatory work. Therefore, work can begin to determine the composition of the negotiating team from the moment when the State establishes that there is a need for delimitation (after having evaluated its maritime claims and those of its neighbour(s)).

246. In addition to the head of the delegation, the team should include one or more legal adviser, at least one expert on bilateral relations with the country concerned, as well as experts in the field of cartography, hydrography, geodesy and, as the case may be, geographic information system (GIS). It goes without saying that the participation, if possible, of experts who had taken part in the establishment of baselines or outer limits of the maritime zones would greatly benefit the team.

247. Practical experience points to several very important elements regarding the team:

- The need for a respected and competent head of the team at the appropriate seniority level;

- The need for all the experts involved to work as a team and respect the team discipline;
- The need for an appropriate mandate.

248. The size of the team is important from the point of view of financial implications and team manageability during negotiations. The head of the delegation should be in a position to exercise control and authority over all its members during the negotiations.

249. Although it is usually not advisable that the extent of the mandate (instructions) be disclosed to the other party in the negotiations, every member of the team should be aware of it, in particular if the negotiations may involve sensitive political issues, such as sovereignty over territory (islands), disputed use of straight baselines, use and allocation of living and non-living resources, etc. Considerations of mandate will also necessarily be one of the most important elements in the advance preparatory work that needs to be undertaken jointly by the team members.

250. It is assumed that the team would hold a number of preparatory meetings. At such preparatory meetings, the team may need to perform the following tasks:

- Discuss the state of preparedness for the negotiations;
- Conduct a thorough review of relevant documents;
- Consider the negotiating strategy;
- Identify what additional documents or studies may be needed;
- Summarize known issues about the negotiating position of the neighbouring State;
- Discuss issues concerning publicity.

251. When considering the negotiating strategy at the preparatory meeting, it might be useful to rehearse internally several delimitation scenarios based on different criteria with a view to assessing their acceptability. It might also be useful to review jurisprudence and existing delimitation agreements concluded by other States to examine similarities and the extent to which such similarities could be used in the forthcoming negotiations.

C. Information and documentation

252. Within the framework of the preparatory work, and perhaps even before deciding to initiate negotiations, it is recommended that necessary documents be collected and that the relevant data be assembled and processed. As a number of geographical, historical, political, economic or other facts concerning the maritime zones to be delimited may be relevant, such an effort may eventually lead to the production of various preliminary studies and reports. As a result of this preliminary exercise, the negotiating team should be able to take positions at any time on the various points under discussion.

253. As regards the collection of documents, it is recommended to focus first on official documents, which have been made public, either bilaterally or in a broader context:

- Official documents originating from international bodies;
- Official documents of the coastal State itself;
- Official documents originating from the other coastal State with which the delimitation of the maritime boundaries should be conducted;

- All available internal documents, e.g., studies and reports produced by the Government of the coastal State itself.

254. Regarding the documents originating from international bodies, the role played by decisions or awards rendered either by the International Court of Justice, ad hoc arbitral tribunals or, when applicable, by the International Tribunal for the Law of the Sea, should not be ignored (see paras. 99 - 128). It is also useful to keep in mind that the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations Secretariat, may provide upon request useful documentation, including available legislation concerning baselines and maritime zones and, if deposited with the Secretary-General of the United Nations, copies of charts or lists of geographical coordinates showing baselines, outer limit lines and other lines of delimitation of maritime zones of the neighbouring State.

255. From the point of view of the content of the documents, there is some essential information that every well-prepared negotiating team should assemble. Such information should reflect the past and present conduct, legal positions and factual data, as appropriate, for the team's State and, to the extent possible, of the neighbouring coastal State with which the negotiations are to be conducted. It should include, *inter alia*:

- The baselines for the measurement of the territorial sea and/or information concerning the base points, if appropriate;
- Legislation on the territorial sea, continental shelf, exclusive economic zone or fishery zone, as appropriate;
- Existing bilateral treaties with neighbouring States dealing with the territorial sea, continental shelf, exclusive economic zone or fishery zone and the delimitation of those maritime zones;
- Historical treaties, acts, maps and other documents, (e.g., by the former colonial Power) which are relevant to the issues of sovereignty, establishment of boundaries and maritime boundary delimitation and may need to be referred to during the negotiations of the prospective delimitation of maritime boundary;
- Official charts, maps and available lists of geographical coordinates, including information on their geodetic datum;
- Nautical instructions and warnings to navigators;
- Hydrographic readings;
- Surveys of existing living and non-living resources;
- Position papers on the 1958 Geneva Conventions and the 1982 Convention;
- Position papers emanating from prior diplomatic negotiations concerning delimitation of maritime boundaries (if any);
- Conduct of the parties and whatever indicie are available of the line or lines which the States concerned may have considered equitable or acted upon as such, if only as an interim solution affecting part of the area to be delimited, e.g.:

  - The award of oil licences or concessions;

  - The existence of de facto lines as a result of the manner in which the concessions for offshore exploration and exploitation of oil and gas were initially granted;

- Information concerning fisheries, including fisheries licences and arrest of foreign fishing vessels;

- Incidents in the area involving national navies; etc.

256. In addition, there may be a need to collect all documents from sources external to the States concerned (i.e., documents whose origin cannot be attributed to one of the two States), such as:

- Doctrinal writings;
- Studies by private companies;
- Press cuttings; as well as
- Information available from international databases.

257. For ease of reference, in particular in more complex cases of delimitation, it is recommended that a factual database of existing documentation be compiled and constantly updated as new materials emerge. These materials may, of course, be adjusted according to the case: they may be either abridged or expanded in order to convey the geographical, historical and political background of the delimitation exercise to be carried out with the neighbouring coastal State.

D. Field (survey) data and other data

258. Modern delimitation negotiations require accurate data for configuration of coasts, base points, etc., and there might be a need for additional surveys. Experts note that delimitation lines need to be technically precise, especially if there are hydrocarbon resources. At the preparatory stage (as well as later, if required), it is important to determine the actual requirement for data, especially in view of financial implications. If any field data are required prior to a boundary negotiation and government resources are not available, it is highly recommended that a technical expert in the delimitation of boundaries, either within government service or an outside technical consultant, be used to determine precisely the actual field data required for the delimitation process. This will ensure that expensive data acquisition is kept to a minimum.

259. The establishment of facts may be greatly facilitated by reference to international databases containing large volumes of data. Many of them are available on the World Wide Web gratis or for sale. On account of the large demand for highly precise digital data of States' coastlines, this field is undergoing rapid development. Therefore, it is difficult to point to a specific product that will meet all needs. For a general illustration of a coastline and an introductory presentation of the problem, almost any international digital chart will fulfill the goal.

260. However, a large-scale digital chart meeting high-accuracy mapping requirements may not be always readily available. Therefore, there might be a need for additional data collection by means of geodetic, hydrographic or geologic surveys, as appropriate.

261. It is also important to note that technical data should be comprehensible to the negotiators and technical data and knowledge should be used above all to obtain a reasonable solution and to avoid errors. Use of technology does not lead automatically to a solution itself.

262. In some instances, it may be decided that parties will carry out factual preparation jointly. Such a joint preparation would differ from the unilateral establishment of the pertinent facts. It would

rather take a form of "fact finding" and should focus on the technical aspects. Above all, the conduct of the parties in the establishment and evaluation of facts should be based on good faith, even though each party may attach different importance to such facts.

E. Acquisition of technologies, hardware and software aiding maritime boundary delimitation

263. Beyond traditional geodetic equipment, the Global Positioning System (GPS) is extremely helpful and can achieve positioning accuracies at the sub-meter level in mid-oceanic regions.

264. Handling of extensive cartographic data and plotting of maps illustrating various scenarios of delimitation during the negotiation as well as determination of the final delimitation line currently usually requires advanced technical equipment that may not be readily available. Unless the coastal State involved in the negotiations plans to outsource those tasks to a private company competent in the field, it may need to consider purchasing or leasing advanced computers, plotters (large printers), etc.

265. In such a case, there might also be a need for the acquisition of GIS (Geographic Information System) and other software aiding maritime boundary delimitation. GIS is an organized collection of computer hardware, software and geographic data designed to efficiently capture, store, update, manipulate, analyse and display all forms of geographically referenced information. The speed of development of information technology and constant upgrading of software makes it difficult to provide a long-term reference on available and reliable software. Nevertheless, in the process of selecting a commercial GIS or building a customized one, the following groups of modules bundled in the system should be acquired:

- Database-management module for storage of geographic features and any relevant data linked to them;
- Analytical module for performing various analytical tasks, i.e., simulating various scenarios based on the data stored in the database-management module and on the ideas from the team;
- Graphic display module to visualize various scenarios;
- Comprehensive graphic user interface to enable users to easily operate the system.

266. It is also recommended to use a graphic design software package to provide professional-level cartographic output once the results of the analysis are ready for presentation. [84]

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[84] The speed of development of the information technology and constant upgrading of software make it difficult to provide a longer-term reference on available and reliable software packages. However, it is noted that, as of the end of 1999, DOALOS was using the following: (a) ARC/INFO®, version 7.2.1, Environmental Systems Research Institute, Inc. (ESRI) (with extensions Plotting; Network; TIN; COGO®; Grid®); (b) ARCView® GIS, version 3.1, Environmental Systems Research Institute, Inc. (ESRI) (including extensions: Spatial Analyst; Network Analyst; (c) Adobe Illustrator®, version 8.0, Adobe Systems Incorporated (with GIS plug-ins: MAPublisher® for Windows 95/NT version 3.5, Avenza Corp.).

F. Financial implications

267. The extensive preparatory work, the amount of data required and the need for special expertise within the negotiating team usually result in non-negligible financial implications. However, regardless of the importance of financial implications for negotiating a delimitation agreement, the benefits of legal certainty, friendly and good-neighbourly relations as well as amicable solutions far outweigh any immediate budgetary impact. In addition, the cost of adjudicating disputes is, as a rule, substantially higher. Coastal States should make a careful evaluation of the complexity of delimitation issues and of available data in order to make a sound cost assessment.

268. The cost of bilaterally negotiating a maritime boundary delimitation agreement will depend upon a number of factors. It should be quantified in time and budgeted. In terms of budgetary planning, it is recommended that budgetary resources be available over an extended period of time. Several factors may contribute to a costly negotiation. However, certain cost-reduction strategies may help to bring the overall cost of the negotiations down to an acceptable level:

Negotiating team: members of the negotiating team not in government service; technical advice required from an outside source (e.g., on a consultancy basis); legal advice required from an outside source (e.g., contracted from a law firm or on a consultancy basis); travel and subsistence costs required for visiting the neighbouring State to attend the negotiations. (Technical and legal consultancy fees can range from approximately $300 to $600 per hour at 1998 prices. Obviously, the more renowned the expert or consultant, the higher the cost.)

It is possible to control the consultancy cost by requesting an advance cost assessment, free of charge. It also helps to link the cost to the amount of work to be performed, thus avoiding the frequently exorbitant hourly charges. There are also strategies on how to reduce costs for both parties to the negotiations (e.g., one party travels, the other provides accommodation in government facilities). However, such use will depend on established practices and customs of both States.

On the other hand, if all the expertise required is within government service and travel and subsistence and hospitality are provided through government departments, the costs associated with bilateral negotiations will be subsumed in the budget of government departments. Thus, the costs could be quantified and budgeted for and will essentially entail time and salary for each member of the negotiating team, together with travel and subsistence costs.

Documentation: Maps and charts representing relevant maritime zones unavailable from government sources and which are to be acquired from a commercial outlet. It should be noted that charts representing whole maritime areas could be prohibitively expensive, even though the actual costs may vary depending on the source (see also para. 254).

Other data: As pointed out above, it is important to determine the actual requirement for data in order to keep costs under control. It should be borne in mind that if acquisition of additional geophysical data is required, the cost of a survey vessel for collecting that data may be in the order of $38,000 to $60,000 per day; this does not include the processing and analysis of the data. Although acquisition of data concerning base points would be less expensive, it may still represent a substantial portion of the overall cost of negotiations.

Certain other, less expensive solutions than survey vessels, should also be considered, such as aerial survey or remote sensing.

Once the actual requirement has been determined, it is recommended that a complete package be negotiated with the service provider covering the acquisition and post-processing of the data. In this way, a competitive overall price may be obtained.

Technology costs. Costs of acquisition of computer hardware capable of handling complex data and GIS applications, as well as acquisition of GIS software and other software aiding maritime boundary delimitation should also be taken into account. Under current market conditions, the optimal technology cost would amount to at least $35,000. [85]

[85] Based on the average cost of a workstation, GIS software, plotter and postscript software.

CHAPTER 6. NEGOTIATING AND DRAFTING THE AGREEMENT

A. Negotiating the agreement

1. Principles of international negotiations

269. Good faith must characterize all phases of the negotiations, which must be conducted in a spirit of fairness and effectiveness. This implies that the parties are not allowed to engage in any conduct or activity which is contrary to their objective, and that any systematic attitude of reluctance, refusal, pressure or competition is bound to result in failure. Ambiguity or inconsistency in word or deed will be interpreted in a way that is unfavourable to the person who exhibits it (see Temple of Preah Vihear case (Cambodia v. Thailand), Judgment of 15 June 1962); [86] failure to respect agreed procedures and time frames or adverse proposals often appears to run counter to the manner in which the negotiator is obligated to act. [87] Negotiators must inform themselves in advance of all factors that may have an impact on the negotiations, on the course of events and on the situation in the other State party to the negotiations.

270. In this connection, it is appropriate to recall that the General Assembly of the United Nations adopted in 1999 a resolution on principles and guidelines for international negotiations (resolution 53/101), which is contained in annex II to the present Handbook.

2. Informal contacts and consultations preceding the formal negotiations

271. The negotiation of maritime boundary delimitation is a process which usually begins with informal contacts and consultations prior to the inception of formal meetings. Those contacts and consultations may then later evolve into formal rounds of negotiations if the parties deem that there is a potential for a possible successful outcome to negotiations. They usually do not involve high-level officials and are conducted entirely in private, without publicity and press coverage. In addition to testing the political will and determination of the parties, those contacts might also be used for negotiating in advance a modus operandi to facilitate and streamline the negotiating process, for the exchange of information, establishing a necessary degree of trust, etc. They may also be used to advance some substantial aspects of the negotiations.

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[86] I.C.J. Reports 1962, p. 42.

[87] Alain Plantey, La négociation internationale: principes et méthodes, 2nd ed. (Paris, CNRS Éditions, 1994), pp. 125-126, para. 490.

3. *Objective of the negotiations and attitude of the parties*

272. It should be re-emphasized that the objective of the negotiations is to reach an agreement on a maritime boundary delimitation which is perceived by both sides as representing a fair and equitable solution. It is important to remember that facts, including the political dimension, will be interpreted during the negotiations from subjective points of view, according to the interests attached to them by the negotiating States. As was pointed out above, it is inevitable that during the negotiations, many historical, political or strategic considerations will be taken into account (see chapter 3, sect. C and D). These include, but are not limited to, historical considerations and other problems, the determination of the land boundary in the context of the delimitation between adjacent States, security issues, contemporary relations between the parties, economic relations or settlements of various disputes, problems of maritime or air navigation, rights of exploration or exploitation, and issues of geopolitics and global strategy. Added to these are economic considerations: interest in developing the resources of the continental shelf, but also in developing fishing resources, in respect of which it is often necessary to take historical fishing rights into account.

273. It is equally important to bear in mind that in bilateral negotiations of such a sensitive nature one of the most necessary elements is the willingness to negotiate and to achieve an equitable solution. Thus, although there is no legal limit to the considerations which States may take account of, it might be useful to establish the importance of each factor prior to the negotiations and to project how and at what stage of the negotiations those factors will be used. In this context, it might be mentioned that under the right circumstances, even before the parties embark upon negotiations, they may conduct certain technical preparatory tasks on a bilateral basis.

274. As was mentioned above, States are bound under the 1982 Convention to make every effort to agree on provisional arrangements of a practical nature, pending the finalization of the delimitation agreement. Although such arrangements are without prejudice to the final outcome of the delimitation, the mere fact of their existence is an important indicator of the good will of both parties to achieve a mutually acceptable solution on maritime boundary delimitation.

275. The negotiating parties may on occasion wish to consider other practical steps that would contribute to a better negotiating atmosphere and to the establishment of trust between the negotiating teams.

4. Rules relevant to the negotiations

276. During the negotiations, the negotiators should consider, among other things, international rules as well as their own national (constitutional and other) rules relevant to the negotiations, conclusion and implementation of treaties:

- The law of treaties is regulated by the 1969 Vienna Convention, which reflects to a large extent customary rules. Owing to the geographic characteristics of many regions, special significance may have to be given to the law of treaties regarding third States (i.e., non-parties to the delimitation agreement);
- National rules may, in addition, indicate the authority competent to initiate the negotiations and to conclude a treaty, the authority competent to bind definitively the State, the legal relations between the treaty and juridical acts effected under

domestic law, provisions on the conditions governing the application of the treaty under domestic law, etc.

5. Full powers

277. Important matters to be kept in mind are the issuance of full powers and the determination concerning at which stage they may be required. This and other questions may be discussed prior to the initiation of formal negotiations. At that stage, various contacts can take place between potential parties, such as exploratory talks or soundings. The main purpose of such contacts is to explore discreetly the degree of interest of the other party in negotiations without raising excessive expectations among the public.

6. Need to avoid certain unilateral actions

278. One aspect of utmost importance should be noted. Although various signals can be sent prior or during the negotiations to the other State in order to demonstrate the willingness to negotiate seriously, certain public or official pronouncements on delimitation should be avoided. It should be borne in mind that when written or oral pronouncements on delimitation are made by the Head of State, Head of Government, Minister for Foreign Affairs or the Ambassador to the State concerned, they might amount to a unilateral declaration of a binding nature, which could later be invoked in a potential adjudication. Therefore, it would be advisable to regularly brief these high officials representing the State on the negotiating team's strategy in order to indicate what kind of statements might be appropriate to advance with a view to promoting the State's position.

279. On the other hand, it has to be stressed that nothing that has been said or done by the negotiators during the negotiations has any bearing on the legal position of the parties in a potential adjudication. It may help confidence-building between the two parties if it is agreed at the outset that they will not use information exchanged during the negotiations in any eventual subsequent proceedings before a court or tribunal.

280. It should be recalled that four important political decisions can be identified in connection with maritime boundary delimitation:

- The decision to negotiate;
- The decision to propose a particular boundary;
- The decision to make a concession with a view to reaching an agreement;
- The decision to agree on a particular boundary.

281. The temporal relationship among the first three decisions involves complex questions of subjective intent, information regarding the other party's attitude, management of domestic political pressures and negotiation strategy and style. [88]

7. Negotiating strategy and tactics

282. It should be emphasized that there is no special universally applicable negotiating strategy for negotiating a maritime boundary delimitation agreement. The following paragraphs, therefore, consist of several observations and reminders that might be of assistance to the negotiating teams in planning their strategy or tactics.

283. The negotiating strategy should be based on the mandate of the negotiating team and should be the result of the preparatory work.

284. Negotiating tactics would very much depend on how the process of negotiations develops and other short-term considerations.

285. The negotiations should be conducted in private, especially in the light of many sensitive issues which usually may be related to the maritime boundary delimitation. The agreement is not required to identify the considerations that led the parties to adopt the dividing line and/or the arrangements (cooperation or other) that form part of it or even the specific methods used to establish the boundary.

286. The experts point out that in practice, almost every negotiating process starts within each negotiating team. This internal exercise may consist in drawing sets of lines, including the strict equidistant line, with a view to assessing their effect and determining which one could best serve the interest of the State, taking into account the considerations and factors that the team deems to be relevant to the delimitation. However, in doing so, the drawing of those lines should not lead to unreasonable proposals.

287. The equidistant line has been used in a number of cases as the starting feature of reference at the first stages of negotiations. In due course, the negotiators may need to decide which of the other assembled facts should be used. Practice has shown that it is better to start the bilateral negotiations with a line and not to introduce right at the outset the notion of the area to be delimited. As pointed out above (see para. 132), that area will reveal itself in the process of the negotiations.

288. To provide enough room for discussion of various technical or substantive issues (e.g., baselines, fisheries, etc.), especially in more complex cases of maritime boundary delimitation, the negotiators might consider the possibility of creating small working or technical groups to this effect.

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[88] See B. H. Oxman, "Political, strategic, and historical considerations", International Maritime Boundaries (The American Society of International Law), J. L. Charney and L. M. Alexander, eds. (Dordrecht, Boston, London; Martinus Nijhoff Publishers, 1993), vol. I, pp. 10-11.

Those groups should work on identifying mutually acceptable solutions in a specific subject area and then report to the heads of delegations.

289. A very important element of negotiations is to avoid misunderstandings and misinterpretations:

- A clear and concise presentation of the negotiating position and proposals could largely contribute to the successful outcome of the negotiations;
- Specific proposals should be accompanied by illustrative charts;
- Use of modern presentation technologies may also be considered.

290. While the parties are free to use any of the well-known negotiating tactics, special mention must be made, within the context of negotiating a maritime boundary delimitation agreement, of the need to avoid excessive claims, which are bound to have a negative effect on the negotiating process.

291. For the talks to continue when it is clear that there are differences, it is up to each side to examine carefully the arguments of the other. Negotiation is a process involving the consideration of alternatives and variations. Each side should be prepared to consider the arguments of the other side in order to examine whether a change in position is warranted.

292. Among many recommendations relevant to the conduct of negotiations, it is necessary to highlight the need to build trust between the negotiating teams. To this end, the parties involved may wish to stage various informal events.

8. Time devoted to the negotiations

293. Although the time devoted to the negotiations will probably be determined by political imperatives, ample time should be assigned to each round. Only if no agreement can be reached within a reasonable period of time should the States concerned resort to the procedures provided for in Part XV. While it may be difficult to define the notion of "reasonable time", practice shows that a number of rounds might be held over several months, even years.

B. Drafting the agreement

1. Form of the delimitation agreement

294. When deciding on the form and designation of the delimitation agreement, the negotiators should first consider their own constitutional rules on the conclusion and effects of treaties, as well as the international law of treaties, in particular the Vienna Convention on the Law of Treaties, 1969 (see para. 276). While there might be cases of agreements concluded without any written documents or cases of a unilateral declaration with binding effects, in the overwhelming majority of cases the maritime boundary delimitation agreement is concluded as an international agreement in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation (treaty, convention, agreement, exchange of letters or notes). The designation has no bearing on the validity of the agreement.

2. Content of the delimitation agreement

295. As a general rule, maritime boundary delimitation agreements tend to be as simple and straightforward as possible. Usually, the number of articles varies between 3 and 15. However, State practice has evidenced several more complex situations which have resulted in correspondingly complex agreements. Examples include the Treaty between Argentina and Uruguay concerning the Rio de la Plata and the corresponding maritime boundary of 19 November 1973, which contains 92 articles; the Treaty between Australia and Papua New Guinea (1978), which contains 32 articles and 9 annexes; and the Treaty between Australia and Indonesia (1989), containing 34 articles and 4 annexes.

296. Generally, the following provisions may be found in various maritime boundary delimitation agreements:

(a) Preamble

297. The preamble usually spells out the intention of the parties to strengthen the existing historical bonds of friendship between them and indicates their desire to establish a boundary (delimitation) line between their maritime zones. More often than not, a preamble also contains references, *inter alia*, to the United Nations Convention on the Law of the Sea, to equity, to equitable principles, to the method employed (equidistance, etc.) and to other general issues (see Agreement between Australia and France (1982)).

(b) Definitions

298. Usually, in the case of less complex agreements which use established terminology (e.g., terminology of the1982 Convention), there is no need for an article devoted to the definition of terms. However, in more complex cases, parties to the negotiation may wish to consider such a possibility (Australia - Papua New Guinea (1978)).

(c) Main clauses concerning the actual delimitation line

299. In its first article(s), a delimitation agreement usually specifies the geographical area concerned and determines the zones of sovereignty and/or jurisdiction in question. It may also contain a reference to the nature of lines used.

300. The following paragraphs or articles, as the case may be, usually contain a small number of other provisions concerning the starting point of the line of delimitation, its course, the different points through which it passes, established habitually by reference to coordinates of latitude and longitude, the nature of the line joining the different points, the line's termination point and the geodetic datum (such as WGS-84). There may also be an article indicating the juridical validity of a technical annex prepared by experts which describes the characteristics and coordinates of the adopted line and/or of a chart appended to the agreement which reproduces an approximation of the agreed line.

(d) Provisions devoted to particular problems [89]

301. There may also be an article devoted to particular problems posed by an attribution and to the determination of its effect on the line separating islands, islets, rocks or low-tide elevations. Or, those articles may merely mention the line of separation, thus implicitly indicating the ownership of islands, islets, rocks or low-tide elevations the possession of which is disputed. Such an article thus makes it possible not only to resolve problems of sovereignty but also to fix the maritime frontier.

302. Among other provisions that might be encountered in the delimitation agreements are clauses concerning navigation and navigational rights. Such provisions may contain references to the regime applicable to navigation and overflight, e.g., recognizing the right of transit passage in routes used for international navigation in the area (strait) between the two States. They may also contain special entitlements: for instance, the agreement may provide for a freedom of navigation within a certain area (sector) for ships flying the flag of the two parties and allow their navigation in the sectors adjacent to the delimitation line. The agreement may also address the issues of the safety and security of navigation and foresee measures of a preventive character to be taken by the parties in this respect. [90] Less frequent are provisions of a prohibitive character (e.g., prohibiting vessels of both parties from navigating beyond the delimitation line, except under exceptional circumstances (accidents)).

303. In some agreements, the navigational issues are resolved by one or both parties voluntarily limiting the extent of their territorial sea so that there is an area of high sea remaining on one or both sides of the median line.

304. As certainty and legal predictability open up new areas in international (bilateral) cooperation, in a maritime boundary delimitation agreement, a system can also be created to:

- Recognize such possibility;
- Establish a consultation mechanism; and/or
- Reflect the fact that there may be circumstances when an agreement should be concluded.

305. Since the delimitation line is, in the overwhelming majority of cases, established by a list of coordinates, there may be a need to specify the method to determine the actual location of the points as well as who should perform this task. Therefore, the agreement may also contain an article designating on both sides the competent authority to deal with those and other technical issues.

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[89] The negotiators can take model clauses for their draft agreement from J.C. Charney and L. M. Alexander, eds., International Maritime Boundaries (The American Society of International Law), (Dordrecht, Boston, London; Martinus Nijhoff Publishers, 1993).

[90] See, e.g., article 7 of the Treaty between Australia and Papua New Guinea (1978); article IV of the Treaty between Panama and Colombia (1976); article 4(8) of the Treaty between Venezuela and the Netherlands (1978); or article VI of the Treaty between Trinidad and Tobago and Venezuela (1990).

306. In case the lines of delimitation of the exclusive economic zone and the continental shelf do not coincide, it is necessary to devote one or more articles to the regime of areas of overlapping jurisdiction. An example of an existing solution may be article 7 of the Treaty between Australia and Indonesia (1997).

(e) Provisions regarding third States

307. In many delimitation situations, in order to complete the delimitation line, it is necessary to refer to a point where this line would meet the outer limit of a maritime zone of a third State. References to this "tripoint" are quite common. They are either of a general nature, if the tripoint or the delimitation lines between parties and the third State are still to be negotiated, or specific, if the point already exists as a result of another agreement (France - United Kingdom (1991)).

(f) Dispute settlement provisions concerning the interpretation and application of maritime boundary delimitation agreements

308. In the existing State practice, a large number of maritime boundary delimitation agreements contain dispute settlement provisions concerning the interpretation and application of those agreements. Usually those provisions do not create new obligations that would not exist under general international law. Thus, general references to dispute settlement through consultations, negotiations or any other procedure for the peaceful settlement of disputes laid down in Article 33 of the Charter of the United Nations seem to have more of a political than a legal impact.

309. In some existing agreements, however, the parties stipulate that if a dispute is not resolved within a certain period of time each of them may take the dispute to an arbitral tribunal or the International Court of Justice, or elsewhere if they so decide by agreement (Argentina - Uruguay (1973)). The definition of such a period of time varies from general references such as "a reasonable period of time" to specific references, e.g., "four months", "180 days", which are seldom greater than "six months".

310. In isolated cases, a more complex agreement may even contain provisions on the establishment of an ad hoc arbitral tribunal, appointment of its members, basic procedural rules and the binding force of its decision. However, such an approach could hardly be recommended, especially taking into account the nature and purpose of a maritime boundary delimitation agreement.

(g) Prevention and settlement of other disputes

311. Other varieties of dispute settlement clauses that might be identified in State practice relate to disputes concerning the position, in relation to the delimitation line, of an installation, artificial island or other structure (e.g., a drilling site, a well's intake, etc.). In such cases, the agreements provide for the parties to determine, by agreement or consultations between them, on which side of the delimitation line the installation, artificial island or other structure is to be situated.

312. In individual cases, delimitation agreements also contain provisions to prevent disputes in case of transboundary pollution or the threat thereof. Those provisions are included to create an obligation for the parties to take a specific action, such as notifying the other party in case of accidents, oil spills, providing necessary information or data, creating an investigation commission,

considering applications for compensation submitted by the other party or by other persons, etc. Such provisions may be considered if the agreement contains resource-deposit clauses, resource-unity (unitization) clauses or some other cooperative-arrangement clauses.

(h) Resource-deposit clauses, resource-unity clauses and other cooperative-arrangements clauses

313. During the negotiation of an agreement on the delimitation of the continental shelf, the parties may be aware of the existence of petroleum or gas deposits situated in areas through which the boundary line passes, or may expect to discover such resources in the near future. This situation is usually dealt with through various resource-deposit clauses. These may take the form of resource-sharing clauses, resource-unity clauses or clauses on resource conservation, management and exploitation. For example, in the maritime boundary delimitation between Bahrain and Saudi Arabia (1958), Saudi Arabia grants to Bahrain half of the net revenue accruing to Saudi Arabia from exploitation of one area which is under its sovereignty and jurisdiction.

314. Resource-deposit clauses, often modelled on the 1965 United Kingdom-Norway Continental Shelf Agreement, are contained in a considerable number of maritime boundary delimitation agreements. [91] In delimitation agreements, special clauses concerning future discoveries of transboundary resources have also been used extensively. Such clauses usually state general principles such as sharing of deposits and its basic modalities, or unity of deposits, or prohibit exploration or exploitation beyond a certain distance from the boundary. [92] Such provisions, however, are not a necessary element of the delimitation treaty: in a number of cases, the parties may decide to deal with the resource-related issues in a separate agreement and make only a reference (general or specific) to such a separate agreement (see paras. 325 to 332 and annex VI to this Handbook).

315. With respect to both non-living and living marine resources, State practice shows a number of provisions establishing "joint regime areas", "joint development areas" and "joint commissions" or "joint authorities" to deal with the exploration and exploitation of those resources. However, few delimitation agreements go beyond establishing such areas and specifying a general mandate for the joint body, e.g., with a view to elaborating the modalities for the implementation and the carrying out of the activities of exploration and exploitation of the natural resources, whether living or non-living, of the waters superjacent to the seabed and the seabed and its subsoil and other activities for the economic exploitation and exploration of the Joint Regime Area; [93] or "*conducting studies and*

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[91] B. Kwiatkowska, "Economic and environmental considerations in maritime boundary delimitations", International Maritime Boundaries (The American Society of International Law), J.I. Charney & L.M. Alexander, eds. (Dordrecht, Boston, London; Martinus Nijhoff Publishers), vol. I, 1993, p. 87.

[92] Ibid.

[93] Maritime delimitation treaty between Jamaica and Colombia (12 November 1993), articles 3(2) and 4.

adopting and coordinating plans and measures for the conservation, preservation and rational exploitation of living resources and the protection of the marine environment in the common [fishing] zone...". [94]

316. In this connection, it may be useful to mention also the possibility of establishing "zones of tolerance", in which the delimitation of the exclusive economic zone would not affect small traditional fisheries. [95]

(i) Clauses concerning fisheries rights

317. During the negotiations of an agreement on the delimitation of the exclusive economic zone (or fishery zone), the parties may in addition have to take into consideration the existence of fish stocks and traditional fishing rights or practices in the areas through which the dividing line passes. However, in the light of the permanent nature of a maritime boundary delimitation agreement, it should be noted that matters of fisheries in particular are better avoided in such an agreement. As fisheries dynamics change over time, there may be a consequent need to renegotiate such issues. If included in the agreement, these issues may give rise to reopening the agreement as a whole, including its part on the delimitation. A more advisable approach, if politically feasible, would be to deal with living marine resources separately from the maritime boundary delimitation agreement, since the parties have full latitude to complement that agreement with resource-sharing agreements.

318. This does not preclude the parties from inserting certain clauses of a permanent nature, e.g., regarding the long-term commitment of States to develop their relations in respect of fisheries, exploration or exploitation of other marine resources, marine scientific research, etc. Maritime boundary delimitation agreements may contain other articles concerning "common fishing zones", or "joint fisheries areas", or concerning joint development agreements or other arrangements for promoting good-neighbourliness and environmental protection.

319. Sometimes States prefer, for political reasons, not to have a separate round of negotiations on living resources and therefore address all issues, including exploration and exploitation of marine living resources in a single document (see Treaty between Trinidad and Tobago and Venezuela (1990)).

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[94] Treaty between the Governments of the Eastern Republic of Uruguay and the Argentine Republic, concerning the Río de la Plata and the corresponding maritime boundary (19 November 1973), article 80.

[95] See Masahiro Miyoshi "The basic concept of joint development of hydrocarbon resources on the continental shelf, with special reference to the discussions at the East-West Centre workshops on the South-East Asian seas" International Journal of Estuarine and Coastal Law, vol. 3, No. 1 (February 1988), pp. 1-18.

(j) Final clauses

320. An agreement is completed by formal clauses concerning its signature, ratification, entry into force, amendments, termination, expiration, authentic texts, etc. Those provisions do not usually depart from established international practice. Negotiators need to refer to the international law of treaties, as reflected in 1969 Vienna Convention on the Law of Treaties, for all questions concerning the conclusion and entry into force of the maritime boundary delimitation agreement. In this regard, there are only a few comments that might be useful with respect to the maritime boundary delimitation agreements.

321. Regarding entry into force, it should be borne in mind that it would depend to a great extent on the constitutional rules of the parties whether or not the agreement would be subject to ratification. As State practice shows, maritime boundary delimitation agreements usually enter into force:

- Upon signature or within a fixed period thereafter;
- Upon exchange of instruments of ratification; or
- On or within a fixed period after the date on which each State notifies the other that the respective constitutional requirements for entry into force have been fulfilled.

322. It should be emphasized that maritime boundary delimitation agreements, as does any boundary treaty, have a vocation for permanence and stability. *"In general, when two countries establish a frontier between them, one of the primary objects is to achieve stability and finality"*. [96] This frontier *"is subject to the rule excluding boundary agreements from fundamental change of circumstances"*. [97] In the words of article 62 (2) of the 1969 Vienna Convention: *"A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:...if the treaty establishes a boundary"*. The 1969 Vienna Convention on the Law of Treaties thus establishes the sacrosanct nature of such agreements.

323. Also, an agreement on the delimitation of the territorial sea, the continental shelf or the exclusive economic zone does not normally specify the date on which it shall cease to have effect. On the other hand, specific or special agreements within the framework of the delimitation agreement itself may specify limits to their own duration. These may take the form of: (a) agreements on the award of fishing licences or quotas to nationals of the contracting States or of third States; (b) agreements on the joint development of specific areas of the continental shelf; or (c) agreements on the sharing of the resources of the continental shelf and its superjacent waters. Such agreements may also contain a clause on tacit renewal or renewal subject to notification.

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[96] Case concerning the Temple of Preah Vihear (Cambodia v. Thailand), Merits, Judgment of 15 June 1962, I.C.J. Reports 1962, pp. 32-35. See also Aegean Sea Continental Shelf, Judgment, I.C.J. Reports 1978, pp. 35-36, para. 85.

[97] Aegean Sea Continental Shelf, Judgment, I.C.J. Reports 1978, pp. 35-36, para. 85.

324. As with any treaty entered into by States Members of the United Nations, a maritime boundary delimitation agreement after its conclusion shall be registered as soon as possible with the Secretariat of the United Nations pursuant to Article 102 of the Charter of the United Nations.

C. Resource (deposit)-sharing agreements

325. As mentioned above, the conclusion of an agreement on maritime boundary delimitation might be complemented by the conclusion of other agreements, such as resource-sharing agreements. State practice shows that agreements on sharing the resources of the continental shelf can be varied:

- Parties may delimit a zone of joint exploitation and provide for the equitable division of resources or of profits and expenses, either in equal shares or otherwise;
- Parties may provide for the establishment of a joint authority with responsibility for managing, conserving and organizing the exploitation of the zone's resources by means of, e.g., rules on the issuance of exploration and exploitation permits, the sharing of expenses and revenues or more flexible and informal arrangements, such as the exchange of information on the deposit, the parties licensed to exploit it and the exploitation itself; and
- Deposit-sharing agreements can also provide for the joint use of infrastructure.

326. In other kinds of agreements, sometimes called "unitization" agreements, parties consider the deposit as a unit and establish a division based on percentage. This apportioning may be periodically reassessed according to the condition of the deposit (e.g., every 5 or 10 years). The parties may also provide for measures to prevent and combat pollution. In cases where there is no immediate assurance of the existence of resources, the parties may nevertheless provide in their agreement for guidelines or arrangements for future cooperation with a view to sharing the resources of sectors through which the boundary passes. [98]

327. In the delimitation of the exclusive economic zone, the parties may in addition have to take into consideration the existence of fish stocks and traditional fishing rights or practices in the areas through which the dividing line passes. Once again, the parties have the latitude to complement the maritime boundary delimitation agreement with a resource-sharing agreement.

328. In cases where the parties delimit both zones, i.e., the exclusive economic zone and the continental shelf, and depending on the existence of resources in each zone, they may complement the maritime boundary delimitation agreement and the resource-sharing agreement with agreements on pollution prevention and on resource management, conservation and exploitation. These may take the form of separate agreements for each zone.

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[98] For more information, see Joint development of offshore oil and gas. A model agreement for States for joint development, with explanatory commentary, Hazel Fox, Paul McDade, Derek Rankin Reid, Anastasia Strati and Peter Huey (London, British Institute of International and Comparative Law, 1989).

329. State practice also shows that agreements to share the fishing resources of the exclusive economic zone can be varied as well. The negotiation of such agreements tends to be more complex than that of agreements on mineral resources, especially on account of the complexities of issues related to fisheries conservation and management. For example, the parties need to take into account numerous provisions which deal with the rights and duties of States with regard to the conservation and exploitation of the living resources of the exclusive economic zone and adjacent zones of the high seas. There has been considerable development in the field of normative regulation of fisheries, with a number of new global, regional as well as subregional agreements and arrangements. The parties should also take due note of the traditional fishing rights, the existence of artisanal or subsistence fisheries, and rights shared bilaterally with third States. It should be noted in this respect that fisheries issues should also be dealt with in a spirit of good-neighbourly relations. Examples of such cooperative agreements are the agreements between the Russian Federation and Norway which are based on different species and are independent from the delimitation line.

330. In any case, the first question faced by the negotiators when dealing with maritime boundary delimitation should be whether resource-sharing requires a determination in advance of sovereignty and/or jurisdiction over the area in question. Since the objective of the exercise is an agreement, the parties are free to decide whether or not to conclude a maritime boundary delimitation agreement first. The agreement on the sharing of mineral or fishing resources may be concluded after the area of sovereignty and/or jurisdiction has been defined; in this case, the agreement will concern the sharing of the resources drawn from a given sector of the delimited area.

331. Alternatively, the parties may conclude a resource-sharing agreement without resolving problems of sovereignty and/or jurisdiction. In this case, the sharing of the resources or revenues from the exploitation of a gas or petroleum deposit or of straddling fish stocks will have to be determined according to the terms to be set by mutual agreement.

332. It should be noted that zones of cooperation created in the absence of established boundaries are an example of pragmatic approach and State practice shows that they represent a possible solution in the case where States fail, albeit temporarily, or are unable to reach a maritime boundary delimitation agreement. Such resource-sharing agreements may also be identified at the regional or subregional level through relevant regional or subregional organizations or arrangements.

CHAPTER 7. SETTLEMENT OF DISPUTES

333. The 1982 Convention has established a compulsory system for settlement of disputes arising between parties concerning its interpretation and application. When coastal States fail to establish their maritime boundaries through negotiations and if no delimitation agreement is reached within a reasonable time, the coastal States concerned, if they are parties to the 1982 Convention, shall resort to the settlement of dispute procedures referred to in its Part XV (article 74, paragraph 2, and article 83, paragraph 2).

334. States in becoming parties to the 1982 Convention are consequently bound to seek a solution to any disputes by the peaceful means listed in Article 33 of the Charter of the United Nations (such as negotiation, enquiry, mediation, conciliation, and arbitration), as referred to in article 279 of the Convention, and to apply the rules of international law, whose sources are listed in Article 38 of the Statute of the International Court of Justice, i.e., international conventions, international custom, general principles and, as subsidiary means, judicial decisions and the teachings of the most highly qualified publicists, as stipulated in by article 74, paragraph 1, and article 83, paragraph 1, of the 1982 Convention.

335. Part XV of the 1982 Convention identifies the procedures available to States Parties for the settlement of their disputes concerning the interpretation and application of the 1982 Convention. Thus coastal States parties to a maritime boundary delimitation dispute may elect to settle it either by recourse to procedures entailing non-binding decisions (Section 1, Part XV) or by recourse to procedures entailing binding decisions (Section 2, Part XV). Among the procedures set forth in the 1982 Convention entailing non-binding decisions available to the parties are exchange of views (art. 283) and conciliation (art. 284), whereas the procedures entailing binding decisions are those before the International Court of Justice, the International Tribunal for the Law of the Sea or an arbitral tribunal.

A. Recourse to procedures entailing non-binding decisions

336. Before invoking any of the procedures set out in Section 2, Part XV, of the 1982 Convention, coastal States Parties should endeavour to settle their dispute by recourse to the procedures entailing non-binding decisions under Section 1, Part XV, in particular, exchange of views, good offices, mediation, inquiry or conciliation.

1. Exchange of views

337. This should be the first step of the settlement of any dispute concerning maritime boundary delimitation. It must be recalled that under article 283, paragraph 1, of the 1982 Convention, coastal States Parties in case of a dispute regarding maritime boundary delimitation shall proceed expeditiously to an "exchange of views" in order to reach a peaceful settlement. Similarly, coastal States Parties are obliged to resort to an "exchange of views" if their negotiations on a maritime boundary delimitation agreement have been unfruitful so that they might jointly decide which "other peaceful means" of resolving their dispute they will pursue.

338. Article 283, paragraph 2, addresses two distinct situations: where coastal States Parties have terminated a procedure without settlement of their maritime boundary delimitation dispute and where a settlement has been reached but consultations are needed regarding the manner of implementing the settlement.

339. In both cases, the parties shall proceed to an "exchange of views" on the best manner as well as on the most suitable time frame to implement the settlement reached. In the latter case, however, the parties are obliged to proceed to an "exchange of views" for the purpose of jointly reaching a decision on the next step they may wish to follow to settle their maritime boundary delimitation dispute.

340. The most suitable and effective manner for the parties to have an "exchange of views" would be through the normal diplomatic channels (directly, by plenipotentiaries, or indirectly, by diplomatic notes or letters). That said, the parties are not precluded from engaging in an "exchange of views" by any other means of their choice, for example, electronically (facsimile, telex or email). The diplomatic practice of States is replete with examples of "exchange of views". A recent example may be found in the cases regarding the request for provisional measures between Australia and New Zealand, on the one hand, and Japan, on the other, concerning southern bluefin tuna decided by the International Tribunal for the Law of the Sea on 27 August 1999. The Applicants, it was pointed out in the dissenting opinion of Judge Vukas, "*...are entitled to submit their request to the arbitral tribunal, as no settlement has been reached by recourse to Part XV, section 1, of the Law of the Sea Convention. This condition for the submission of a dispute to the arbitral tribunal provided for in article 286 of the Convention, has been fulfilled by the Applicants by way of several exchanges of views [emphasis added] they had with Japan in 1998 and 1999...*". [99]

2. Good Offices

341. Although not set out specifically in Article 33 of the Charter of the United Nations, "*good offices*" is a procedure under international law contemplated in international instruments, such as the 1948 American Treaty on Pacific Settlement of Disputes (Pact of Bogotá). It shares some characteristics with mediation, in that its aim is basically to facilitate the negotiations between the parties to a dispute. However, in good offices, the third party does not advance its own proposals and acts basically as a facilitator. In the practice of the United Nations, good offices has emerged as specially useful when political sensibilities must be placated or tensions or hostilities scaled down in order to achieve, through a political process controlled by the parties, an amicable solution to a dispute (a good example of an ongoing process of good offices currently carried out by the Secretary-General of the United Nations and having a direct bearing on an extensive maritime delimitation is the one between Venezuela and Guyana).

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[99] International Tribunal for the Law of the Sea, Southern Bluefin Tuna cases, (New Zealand v. Japan; Australia v. Japan); Requests for provisional measures, Dissenting Opinion of Judge Vukas, available through the web site of the Division for Ocean Affairs and the Law of the Sea: http://www.un.org/Depts/los.

3. Mediation

342. Mediation is one of the procedures set out in Article 33 of the Charter to which parties can resort when seeking a peaceful settlement of their disputes. In mediation, a third party, the mediator, avoiding formalities and respecting confidentiality, tries to reconcile the claims of the parties to the dispute by advancing its own proposals, which are aimed at a mutually acceptable compromise solution. Mediation may be undertaken by a single State, by a group of States or within the framework of an international organization, such as the United Nations, its specialized agencies, other international organizations or national organizations, or associations or by a prominent individual acting alone or with the advice of an established committee. In the practice of the United Nations, mediation has emerged as a distinctive method for facilitating dialogue between the parties to an international dispute. In this sense, mediation aims to scale down hostilities and tensions in order to achieve, through a political process controlled by the parties, an amicable solution to the dispute. Most mediations entail a time limit during which the mediation process may be undertaken.

343. Numerous multilateral treaties and other international instruments contain provisions on mediation, for example, the Charter of the United Nations, the Charter of the Organization of American States, and the 1948 American Treaty on Pacific Settlement (Pact of Bogotá).

344. Mediation is non-binding upon the parties and is thus purely advisory in nature. However, if it is successful, the result of the mediation may become the basis for an agreement between the parties for the settlement of their dispute. In other instances, mediation may not be successful and the parties are free to pursue other means for the peaceful settlement of their dispute.

345. There are two examples where mediation has played an important role in contributing to the settlement of maritime boundary delimitation disputes. The most recent is the mediation by France which led to the Agreement between Yemen and Eritrea to establish an arbitral tribunal to settle their disputes on questions of territorial sovereignty and delimitation of maritime boundaries. [100] Another example is the mediation by the Holy See in the dispute between Argentina and Chile in the Beagle Channel. [101]

4. Enquiry

346. It is clear that this procedure, which is contemplated in Article 33 of the Charter of the United Nations, cannot be expected to play a significant role in the specific context of disputes concerning maritime boundary delimitation. Nevertheless, recourse to enquiry by a third party, especially when selected for its technical expertise rather than because of political considerations, may constitute an

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[100] See the web site of the Permanent Court of Arbitration: http://www.pca-cpa.org/ERYE2intro.htm.

[101] Beagle Channel Arbitration between the Republic of Argentina and the Republic of Chile (1977). See UNRIAA, vol. XXI, Part II.

effective means of resolving discrepancies related to questions of fact which may have a direct bearing on the drawing of the line of delimitation.

5. Conciliation

347. Article 284 provides that any State Party which is a party to a dispute concerning the interpretation or application of the 1982 Convention may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure described in Section 1, Annex V, or another conciliation procedure. [102]

348. In certain cases, States may initiate compulsory conciliation proceedings for specific disputes described under Section 3, which comprise the disputes relating to maritime boundaries. However, it should be borne in mind that conciliation proceedings do not give rise to binding decisions.

349. A list of conciliators nominated by States Parties under Annex V to the 1982 Convention has been published by the United Nations Division for Ocean Affairs and the Law of the Sea and is regularly updated (A/54/429, para. 69).

(a) Non-compulsory conciliation under Section 1, Part XV, pursuant to the procedure set forth in Section 1, Annex V, of the 1982 Convention

350. As mentioned above, article 284, Section 1, Part XV, of the 1982 Convention, stipulates that a State Party which is a party to a dispute concerning the interpretation or application of the 1982 Convention may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure described in Section 1, Annex V, or to another conciliation procedure. In order for conciliation to come into play, the invitation must be accepted and the parties must agree on the applicable conciliation procedure. The parties are free to elect any conciliation procedure of their choice. If the parties agree on the conciliation procedure set forth in Section 1, Annex V, that procedure will govern the conciliation proceedings.

(b) Compulsory conciliation under Section 3, Part XV, pursuant to the procedure set forth in Section 2, Annex V, of the 1982 Convention

351. As mentioned above, the 1982 Convention provides for compulsory submission to conciliation for certain disputes. The compulsory conciliation procedure is set forth in Section 2, Annex V. The maritime boundary delimitation disputes, which must be submitted to compulsory conciliation at the request of any party to such disputes (if a State, when ratifying or acceding to the 1982 Convention or at any time thereafter, declares in writing that it does not accept any one or more of the procedures

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[102] By an Agreement between Norway and Iceland (28 May 1980), a Conciliation Commission was requested to make a recommendation with regard to the dividing line for the shelf area between Iceland and Jan Mayen. See International Legal Materials, vol. XX, No. 4, 1981, p. 797. The agreement on the continental shelf based on that recommendation was concluded in 1981.

provided for in Section 2), are those dealing with the interpretation or application of articles 15, 74 and 83 of the 1982 Convention relating to maritime boundary delimitation or involving historic bays or titles (art. 298, para. 1(a)(i)).

B. Recourse to procedures entailing binding decisions

352. Only States Parties to the 1982 Convention are bound by the provisions relating to the settlement of disputes set out in its Part XV, Section 2, i.e., compulsory procedures entailing binding decisions. In a delimitation dispute, if a coastal State Party considers that it has exhausted all possibilities of settlement under Part XV, Section 1, it then shall invoke the procedures under Part XV, Section 2.

353. Article 287, paragraph 1, of the 1982 Convention deals with the choice of procedure:

> *"When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:*
>
> *(a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;*
>
> *(b) the International Court of Justice;*
>
> *(c) an arbitral tribunal constituted in accordance with Annex VII;*
>
> *..."*

354. As at 31 January 2000, only a small number of States had made the written declaration provided for in article 287, paragraph 1: Algeria, Argentina, Austria, Belgium, Cape Verde, Chile, Croatia, Cuba, Egypt, Finland, Germany, Greece, Guinea-Bissau, Italy, Netherlands, Norway, Oman, Portugal, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania and Uruguay.

355. If a State Party does not specify a choice of procedure, then under article 287, paragraph 3, it shall be deemed to have accepted the arbitration procedure in accordance with Annex VII of the 1982 Convention. It should be noted that when an arbitral tribunal is competent according to article 287, the competence for prescribing provisional measures pending the constitution of an arbitral tribunal belongs to the International Tribunal for the Law of the Sea (article 290, paragraph 5), unless a court or a tribunal has been agreed upon. The most important point is the possibility of combining a declaration under article 287 of the 1982 Convention with acceptance of the option of compulsory jurisdiction provided for in Article 36, paragraph 2, of the Statute of the International Court of Justice.

356. Article 288 of the 1982 Convention deals with the jurisdiction of a court or tribunal referred to in article 287. A court or tribunal has jurisdiction over any dispute concerning the interpretation or application of the 1982 Convention which is submitted to it in accordance with Section 2, Part XV. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter is settled by that court or tribunal.

357. Article 290 establishes the possibility for a court or tribunal to prescribe provisional measures. If a dispute has been duly submitted to a court or tribunal which considers that prima facie it has jurisdiction under Section 2, Part XV, it may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision. Provisional measures may be prescribed, modified or revoked only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

358. Article 293 deals with the applicable law. A court or tribunal having jurisdiction under Section 2 has to apply the provisions of the 1982 Convention and other rules of international law not incompatible with the 1982 Convention. It may decide a case *ex aequo et bono*, if the parties so agree.

359. Article 294 deals with preliminary measures. It provides firstly that a court or tribunal shall determine at the request of a party, or may determine *proprio motu* whether the claim constitutes an abuse of legal process or whether prima facie it is well-founded. If it determines that the claim constitutes an abuse of legal process or is prima facie unfounded, it shall take no further action in the case. Secondly, this article does not affect in any way the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure.

360. Article 296 establishes the finality and binding force of decisions. Decisions are final and must be complied with by all the parties to the dispute. They have no binding force except between the parties and in respect of that dispute.

361. Lastly, the possibility of choice of procedure regulated by article 287 must not obscure the fact that delimitation by recourse to a court or arbitral tribunal is a legal operation which is only based "on considerations of law".

362. Before deciding to submit a dispute to judicial settlement, States may wish to obtain an evaluation of their chances of success prepared by their domestic legal services, often with the assistance of foreign counsel, again, so that they will be able to convince their public opinion that they have done everything necessary to win the case. It is at this stage that:

- A team composed of national lawyers (and foreigners when a State requires additional expertise in maritime boundary delimitation and international dispute settlement) must be set up; to this team may be added a number of experts - geographers, cartographers and hydrographers - as well as fishery experts and historians and military experts, to conduct a thorough fact-finding and gather all the technical data relevant to the case;
- The jurisdictional body must be selected in the light of the choice of procedure made at the time of (signature or) ratification of, or accession to the 1982 Convention, or later (Part XV, art. 287), and of the existence or absence of a clause on mandatory jurisdiction of the International Court of Justice;
- It is necessary to determine the form of the document initiating proceedings - a unilateral application or notification of a special agreement if it has been decided that the case will be brought before the International Court of Justice or the International Tribunal for the Law of the Sea, or an arbitration agreement, in the case of a special arbitral tribunal;

- The precise content of the decision requested from the court or tribunal must be determined or drafted: will the chosen jurisdictional body be requested only to indicate the principles of law applicable to the delimitation in question, leaving it to the parties to negotiate the line, or to indicate the main characteristics of the line or its specific location or whether a single or several lines of delimitation will be required;

- The claimed line or lines must be decided upon; in this regard it should be noted that claims which are excessive present serious problems, especially in litigation;

- The State's official position on the dispute must be communicated to its embassies and to the press, so that this position will be clear and consistent and open to only one interpretation; and

- A budget must be drawn up.

1. Arbitration

363. According to article 287, paragraph 3, of the 1982 Convention, a State Party which is a party to a dispute not covered by a declaration in force shall be deemed to have accepted arbitration in accordance with Annex VII.

364. The draft model rules on arbitral procedure, adopted by the International Law Commission in 1958 and submitted to the General Assembly, [103] and the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between two States (1992) [104] may provide valuable guidance to States in drawing up an arbitration agreement. A list of arbitrators nominated by States Parties under Annex VII is being maintained by the Secretary-General of the United Nations. It has been published by the United Nations Division for Ocean Affairs and the Law of the Sea and is regularly updated (A/54/429, para. 70).

365. As from 1958, States have submitted a number of cases to arbitral tribunals on the basis of arbitration agreements. A study of these arbitration agreements could be useful to States that may wish to consider concluding such an agreement.

366. Under the 1982 Convention, any party to a dispute may submit it to the arbitration procedure provided for in Annex VII by written notification addressed to the other party or parties to the dispute. Such notification must be accompanied by a statement of the claim and the grounds on which it is based.

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[103] The Work of the International Law Commission, Fifth Edition, 1996 (United Nations publication, Sales No. E.95.V.6), p. 174.

[104] Permanent Court of Arbitration: Optional rules for Arbitrating Disputes between Two States, effective 20 October 1992, document IB/doc/93.1, International Bureau of Permanent Court of Arbitration, The Hague.

367. Article 3, Annex VII, sets out the rules on the constitution of the arbitral tribunal, which consists of five members unless the parties agree otherwise.

368. An arbitral tribunal constituted under article 3 functions in accordance with Annex VII and the other provisions of the 1982 Convention. Unless the parties agree otherwise, the arbitral tribunal determines its own procedure, offering each party a full opportunity to be heard and to present its case. The parties to the dispute have an obligation to facilitate the work of the arbitral tribunal in accordance with their law and using all means at their disposal with respect to relevant documents, facilities and information and to enable the arbitral tribunal to hear witnesses or experts and to visit the localities. The expenses of the arbitral tribunal are borne by the parties, including the remuneration of its members, in accordance with the arbitral tribunal's decision. The arbitral tribunal may rule by default. Before making its award, it must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well-founded in fact and law.

369. The preparation of a case for an arbitral tribunal includes the same elements as the submission of a case to the International Court of Justice or to the International Tribunal for the Law of the Sea (the Tribunal). In the matter of the Arbitral Award of 31 July 1989, [105] the International Court of Justice, to which an appeal had been made by Guinea-Bissau for nullification or revision of the award rendered in favour of Senegal, made some useful recommendations for the conduct of arbitration proceedings. [106]

370. The award must be confined to the subject matter of the dispute and state the reasons on which it is based. It is final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It must be complied with by the parties to the dispute. Any controversy as regards the interpretation or manner of implementation of the award may be submitted for decision to the arbitral tribunal which made the award. Alternatively, any such controversy may be submitted to another court or tribunal under article 287 by agreement of all the parties to the dispute (art. 12, para. 2, of Annex VII of the 1982 Convention).

371. In the arbitration agreement the parties may set very tight time limits for the introduction of the various written pleadings and for the oral proceedings. The parties may even request the arbitral tribunal to make its award by a specific date. None of this is possible before the International Court of Justice, the Tribunal or one of their chambers.

372. In conclusion, it should be mentioned that the parties to arbitration are free to: select the date and venue of the proceedings, create exceptional procedures as regards documents and witnesses and eliminate incidental proceedings, such as provisional measures, as well as prevent third-party intervention, which entails delays. Moreover, States:

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105 UNRIAA, vol. XIX.

106 I.C.J. Reports 1991, pp. 70 - 74, paras. 49 - 65.

- Decide on the appointment of the members of an arbitral tribunal and on the modalities for the appointment of its president;
- Control the budget and time of proceedings;
- Decide on the length of proceedings;
- Determine the dates and venues of meetings; and
- Control documents to be submitted.

2. International Tribunal for the Law of the Sea

373. Another alternative provided for in article 287 of the 1982 Convention is the International Tribunal for the Law of the Sea. To date, 14 States out of 24 have indicated their choice of the procedure under article 287 of the 1982 Convention in favour of the Tribunal. However, as of today no case concerning maritime boundaries has been dealt with by the Tribunal.

374. The Tribunal, whose seat is in Hamburg, Germany, was inaugurated on 18 October 1996 as a permanent international judicial organ with general jurisdiction. The Tribunal consists of 21 judges elected by States Parties to the 1982 Convention.

375. The Tribunal functions in accordance with the provisions of the 1982 Convention, its Statute contained in Annex VI of the 1982 Convention, and its Rules adopted on 28 October 1997, together with the Resolution on internal judicial practice of the Tribunal, the Guidelines concerning the preparation and presentation of cases before the Tribunal. [107]

376. Pursuant to Article 16 of its Statute, the Tribunal determined in its Rules of 28 October 1997, which contain 138 articles, the manner in which it exercises its functions:

> *"The Tribunal decided at the very outset that the Rules should ensure the efficient, cost-effective, and user-friendly administration of justice -- the goal being to serve the interest of justice independently, fairly, affordably, with expedition and based on the rule of law. To this end, the Rules provide for abbreviated time limits, prompt hearings, and the use of modern technologies."* [108]

377. Proceedings before the Tribunal are modelled on those of the International Court of Justice. A case is referred to the Tribunal either:

- By a unilateral application, the content of which is specified in article 54 of its Rules; or
- By notification of a special agreement (art. 55).

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[107] See International Tribunal For the Law of the Sea: Basic Texts, 1998 (The Hague, Boston, London, Kluwer Law International, 1999).

[108] International Tribunal for the Law of the Sea, press release ITLOS/Press 7 of 3 November 1997.

378. These documents are addressed to the Registrar and state the subject matter of the dispute and identify the litigants.

379. Article 27 deals with the conduct of the case:

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

380. Agents act on behalf of the litigants after the referral of a case. All communications to or from the Tribunal pass through the Registry. The functions of the Registry are described in article 36 of the Rules. Instructions for the Registry are drawn up by the Registrar and approved by the Tribunal. The procedure put in place by the Tribunal is more modern than that of the International Court of Justice.

381. Article 15 of the Statute provides that the Tribunal may form special chambers composed of three or more of its elected judges, as it deems necessary, to deal with particular categories of disputes. It must constitute a special chamber for dealing with a particular dispute submitted to it if the litigants so request. Lastly, with a view to the speedy dispatch of business, the Tribunal annually constitutes a chamber composed of five elected judges for the purpose of ruling on disputes by summary procedure.

382. According to Article 21 of the Statute of the Tribunal:

> *"The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal".*

383. Article 23 of the Statute, on applicable law, refers to article 293 of the 1982 Convention, which stipulates that the Tribunal shall apply the 1982 Convention and other rules of international law not incompatible with the 1982 Convention. The Tribunal may also decide a case *ex aequo et bono* if the litigants so agree. According to Article 30 of its Statute, the Tribunal must state the reasons for its judgments.

384. Article 25 of the Statute invests the Tribunal with the power to prescribe provisional measures. Articles 89 to 95 of the Tribunal Rules make reference to article 290, paragraph 1, of the 1982 Convention, concerning the provisional measures which may be requested at any point in the proceedings concerning a dispute submitted to the Tribunal.

385. The Statute provides that the Tribunal shall decide on requests for intervention from a State, which considers that it has a legal interest which might be affected by the decision in a case in question. In contrast to the Statute of the International Court of Justice, Article 31 of the Statute of the Tribunal states expressly that, if a request to intervene is granted, "the decision of the Tribunal in respect of the dispute shall be binding upon the intervening State Party in so far as it relates to matters in respect of which that State Party intervened". Articles 99 to 104 of the Rules enlarge on the provisions of the Statute with respect to intervention. In particular, an intervening State is not entitled to nominate an ad hoc judge.

386. The first innovation is found in article 289 of the 1982 Convention, which states: "In any dispute involving scientific or technical matters [the Tribunal] ... may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII, article 2, to sit ... without the right to vote". Inasmuch as maritime boundary delimitation has scientific or technical aspects, it is quite likely that experts will be called upon in cases before the Tribunal. According to article 15 of the Rules, a request for the selection of experts must in principle be made no later than the closure of the written proceedings. Article 4 (2) of the Rules provides that experts may take part in the deliberations. And paragraph 10 of the Resolution on the Tribunal's internal practice in judicial matters states that experts shall be provided with the relevant evidence and that they may be consulted, if necessary, by the drafting committee.

387. Other improvements relate to promoting the speedy settlement of disputes by organizing and managing the work of the litigants and of the judges from the outset of the proceedings. It is expressly provided that the proceedings shall be conducted without delay or unnecessary expense.

388. The written proceedings include the communication to the Tribunal and litigants of memorials, counter-memorials and, if the Tribunal so authorizes, replies and rejoinders, as well as all supporting documents. The written proceedings described in articles 59 to 67 of the Rules are the subject of the Guidelines concerning the preparation and presentation of cases before the Tribunal, issued by the Tribunal on 28 October 1997. Paragraph 2 provides that "a pleading should be as short as possible". Paragraph 6 stipulates that a written submission should contain a short summary of the arguments together with the page and paragraph numbers within which such arguments may be found. Then paragraph 12 states: "The time limits fixed in each case for the filing of the pleadings are not to be understood by the parties as authorizations to hold back a pleading until the last possible moment".

389. One article of the Rules is particularly innovative. Article 68 creates an obligation for the Tribunal to meet in private for an initial consideration of the case between the written proceedings and the oral proceedings.

390. The Resolution on the Tribunal's internal practice in judicial matters adopted on 31 October 1997 states that after the closure of the written proceedings each judge may, within a time limit of five weeks, prepare a brief paper confined to a statement both of the main questions calling for a decision in the light of the written submissions and of any other point which might need to be clarified during the oral proceedings. On the basis of the written submissions and the judges' papers, the President prepares during the eight weeks following the closure of the written proceedings a working document containing first of all a summary of the facts and the main arguments advanced by the litigants in their memorials and proposals concerning in particular any points or questions to be put to the litigants in accordance with article 76 of the Rules, i.e., points or problems which the Tribunal would like the litigants especially to address or on which it considers that there has been sufficient argument. The Tribunal then meets to discuss such points or issues before the opening of the oral proceedings.

391. The oral proceedings consist of the hearing by the Tribunal of agents, counsel, lawyers, witnesses and experts. These proceedings are described in articles 69 to 88 of the Rules. The Tribunal must first set the date for the opening of the oral proceedings, which must, as a general rule, fall within a period of six months from the closure of the written proceedings. After consulting the

litigants, the Tribunal decides on the order in which the litigants are to be heard, the mode of presentation of the evidence, the hearing of witnesses and experts as well as on the number of counsel and lawyers to speak on behalf of each litigant.

392. Paragraph 4 of the Resolution on the Tribunal's internal practice in judicial matters authorizes the President to convene brief meetings to enable the judges to exchange views on the case and inform each other about the questions which they may wish to put to the litigants pursuant to article 76 of the Rules.

393. The Guidelines concerning the preparation and presentation of cases before the Tribunal provide, in respect of the oral proceedings, that submissions should be as brief as possible and avoid merely repeating the facts and arguments contained in the written submissions. But the most remarkable provision is made in paragraph 14 of that document, which states: "Each party should submit to the Tribunal, prior to the opening of the oral proceedings, (a) a brief note on the points which in its opinion constitute the issues that still divide the parties; (b) a brief outline of the arguments that it wishes to make in its oral statement; and (c) a list of authorities, including, where appropriate, relevant extracts from such authorities, proposed to be relied upon in its oral statement. None of these materials will be treated as documents or parts of the pleadings."

394. The Tribunal's private discussion of the case is the subject of detailed provisions in the resolution on the internal practice of the Tribunal in judicial matters, always with the same concern: to speed up the judicial settlement. This process begins with the initial deliberations immediately after the closure of the oral proceedings. The Tribunal determines which are the questions requiring decision and discusses each point. If a majority does not emerge at this stage, the Tribunal may decide that each judge should prepare a "brief" written paper expressing a provisional opinion on the points discussed and on the settlement of the case.

395. As early as possible the Tribunal sets up a drafting committee composed of five judges constituting the majority which appears to be emerging at that time. The drafting committee meets immediately after it has been established in order to prepare a draft judgment, which must in principle be completed within three weeks. Within an additional three-week period, any judge may submit amendments or comments in writing. A second draft of the judgment is then produced by the drafting committee.

396. As a general rule, the discussion of the draft judgment takes place three months after the closure of the oral proceedings. It is given first and second readings, during which the judges who so wish prepare their individual or dissenting opinions. After the second reading, the President conducts a vote in accordance with Article 29 of the Statute with a view to the adoption of the judgment. Separate votes are normally taken on each section of its operative part.

397. The judgment is read out in open court; it is considered to be binding on the litigants from the day of its pronouncement. In the event of any objection as to the meaning and scope of a judgment, any litigant may submit a request for interpretation. Articles 127 to 129 of the Rules describe the conditions and the procedure for revision of a judgment.

3. International Court of Justice

398. The Charter of the United Nations created the International Court of Justice as the principal *judicial organ of the United Nations*

399. The International Court of Justice, which has its seat at The Hague, Netherlands, is composed of 15 judges representing, as a body, the principal legal systems of the world. The judges are elected to a nine-year term of office by the General Assembly and the Security Council. The judges elect a president for a three-year term. A judge sits in a case before the Court even if it directly concerns its own State. However, if the president is a national of one of the States which brought the case to the Court, the president must abstain from exercising that function for that case. In addition, if a serving judge is of the same nationality as one of the litigants, any other litigant may choose a person to sit as judge ad hoc in the case. Likewise, if the Court includes upon the Bench no judge of the nationality of the litigants, each of the litigants may choose a judge ad hoc.

400. Cases may be brought by States before the Court either by a special agreement (Article 36 (1) of the Statute) addressed to the Registry, or by unilateral application by one State if the other State has previously accepted the jurisdiction of the Court (Articles 36 (1) and 37 of the Statute). The documents must specify the subject matter and identify the States in dispute. The Registrar communicates the special agreement or application to all concerned, to the States Members of the United Nations through the Secretary-General of the United Nations as well as to any other States entitled to appear before the Court.

401. Article 94 of the Charter of the United Nations provides that if a litigant fails to perform its obligations pursuant to a judgment, the other litigant may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

402. A judgment of the Court must give the reasons on which it is based. Judges who are unable to concur with the Court's decision, or with the reasons given in its support, may attach to the judgment a statement of their separate or dissenting opinions. Judgments of the Court are final and without appeal. After a judgment has been rendered by the Court, the only procedure available to a litigant is a request for its interpretation, if there is a dispute as to its meaning or scope, or a request for its revision, if some new fact is discovered which, when the judgment was rendered, was unknown to the Court and to the litigant claiming it.

403. As regards the applicable law, the Court applies international conventions and treaties, international custom, the general principles of law recognized by civilized nations, judicial decisions and the teachings of the most highly qualified publicists as subsidiary means of determining the rules of law. Moreover, the Court may decide a case *ex aequo et bono*, if the litigants so agree.

404. The different stages of the proceedings are set forth in the Rules of Court. The litigants are represented by agents and may be assisted by counsel and advocates. The proceedings consist of two parts: written and oral. The written part usually consists of the presentation by each of the litigants of pleadings, which are filed within time limits fixed by Orders. The oral part consists of the hearing by the International Court of Justice, at public sittings, of the agents, counsel, advocates, witnesses and experts.

405. Written proceedings may vary in duration depending on the complexity of the case and whether the litigants request long time limits and extensions of the time limits fixed. The length of the oral proceedings also depends on the litigants. Thereafter, the Court holds deliberations in camera and prepares a judgment, which is drafted in its two official languages (English and French) and delivered at a public sitting. All questions are decided by a majority of the judges present. If there is an equality of votes, the president, or the judge who acts in his place, has a casting vote.

406. Proceedings might give rise to questions that are incidental to the proceedings on the merits, such as the raising of a preliminary objection by a litigant on the Court's lack of jurisdiction. The filing of such objections suspends the proceedings on the merits and gives rise to separate proceedings during which the Court either upholds or rejects each objection or finds that the objection raised does not possess an exclusively preliminary character. In this connection it should be noted that the Court usually accedes to the agreement of the litigants that an objection be considered during the merit stage of the proceedings. Intervention is another incidental question that may arise. A third State may ask to intervene in the case if it considers that it has an interest of a legal nature which may be affected by the judgment. Also, if the dispute between the litigants relates to the application of a treaty which has been signed by other States, those States are entitled to intervene and take part in the proceedings. However, the judgment's construction of the treaty will be binding upon those States.

407. Each litigant bears its own costs, unless decided otherwise by the Court.

408. The Court has adjudicated six maritime boundary delimitation cases since 1945. [109]

409. The Court is singularly well qualified to rule on maritime boundary delimitation disputes in view of its rich experience in such cases. However, it would appear that the Court must improve and rationalize its working methods in order to speed up proceedings and satisfy the legitimate expectations of the States appearing before it, as echoed by Judge Mohammed Bedjaoui:

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[109] - Maritime Delimitation in the Area Between Greenland and Jan Mayen (Denmark v. Norway) (1988-1993): ICJ Judgment of 14 June 1993;

- Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (1986-1992): ICJ Judgment of 11 September 1992;

- Continental Shelf (Libyan Arab Jamahiriya/Malta) (1982-1985): ICJ Judgment of 3 June 1985;

- Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (1981-1984): ICJ Judgment of 12 October 1984;

- Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (1978-1982): ICJ Judgment of 24 February 1982;

- North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands) (1967-1969): ICJ Judgment of 20 February 1969.

"The modernization by the Court of its working methods must today consist of equipping the Court with the necessary tools to discharge its mission properly, in other words to enable it to respond to the revival of popularity which it has enjoyed for some years. This adaptation will also require logistical support going far beyond the support available to the Court today, which has remained virtually unchanged since its creation. However, strengthening the personnel of the Registry and equipping it with information technology and other modern technology require an increase in the Court's financial resources, which paradoxically have just been considerably reduced as a result of the budgetary crisis which is having such a severe impact on the United Nations today." [110]

C. Optional exceptions to the applicability of Section 2, Part XV

410. Section 3, Part XV, establishes limitations and exceptions to the applicability of Section 2. Recourse to the procedures set forth in article 287, paragraph 1, of Section 2, Part XV, is mandatory except in two cases. The first case is dealt with in article 297 and relates to the automatic exclusion of a number of disputes, but it has little to do with maritime boundary delimitation. The second is dealt with in article 298, paragraph 1(a), which authorizes optional exceptions.

411. In accordance with article 298, paragraph 1(a), a State may declare in writing that it does not accept one or more of the dispute settlement procedures set forth in Section 2, Part XV, with regard to one or more categories of disputes. [111] Such disputes concern the interpretation or application of articles 15, 74 and 83 relating to maritime boundary delimitation or disputes involving historic bays or titles. However, the State having made such a declaration is obliged, if no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, to accept submission of the matter to compulsory conciliation under Section 2, Annex V (see para. 351 above). However, any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory is excluded from such conciliation procedure. On the other hand, article 298, paragraph 1(a), does not apply to any maritime boundary delimitation dispute settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding on the parties.

412. After the conciliation commission has presented its report, which must state the reasons on which it is founded, the parties have to negotiate an agreement on the basis of the report. If the negotiations do not result in an agreement, the parties are obliged, by mutual consent, to submit the

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[110] Connie Peck and Roy S. Lee, eds. Increasing the Effectiveness of the International Court of Justice (The Hague, Boston, London; Martinus Nijhoff Publishers, 1997), pp. 36-37 (French version).

[111] A few States have so far made exceptions, under article 298, paragraph 1(a), to the applicability of Section 2, Part XV. They are: Argentina, Cape Verde, Chile, France, Italy, Portugal, Russian Federation, Tunisia, Ukraine and Uruguay.

question to one of the procedures provided for in Section 2, Part XV, unless the parties otherwise agree.

413. Lastly, a State Party which has made a declaration excluding one or more of the procedures set forth in Section 2, Part XV, for the settlement of certain categories of disputes is not entitled to submit such disputes to the settlement of disputes procedure it has excluded without the consent of the State Party with which it is in dispute. However, in accordance with article 298, paragraph 4, any other State Party may submit any dispute falling within an excepted category against the declarant party to the procedure specified in such a declaration. The parties are entitled to agree to have recourse to any procedure excluded pursuant to article 297 or excepted pursuant to article 298 from the dispute settlement procedures provided for in Section 2, Part XV.

ANNEX I. RELEVANT PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982 AND OF THE 1958 GENEVA CONVENTIONS

A. United Nations Convention on the Law of the Sea [1]

PART II

TERRITORIAL SEA AND CONTIGUOUS ZONE

SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 3
Breadth of the territorial sea

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

Article 4
Outer limit of the territorial sea

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

Article 5
Normal baseline

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

Article 6
Reefs

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

[1] Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122. See also United Nations Convention on the Law of the Sea and the Agreement for the Implementation of Part XI of the Convention with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea (United Nations publication, Sales No. E.97.V.10).

Article 7
Straight baselines

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

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

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

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

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

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

Article 8
Internal waters

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

2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.

Article 9
Mouths of rivers

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

Article 10
Bays

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

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

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

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

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

6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 7 is applied.

Article 11
Ports

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

Article 12
Roadsteads

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

Article 13
Low-tide elevations

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

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

Article 14
Combination of methods for determining baselines

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

Article 15
Delimitation of the territorial sea between States with opposite or adjacent coasts

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.

Article 16
Charts and lists of geographical coordinates

1. The baselines for measuring the breadth of the territorial sea determined in accordance with articles 7, 9 and 10, or the limits derived therefrom, and the lines of delimitation drawn in accordance with articles 12 and 15 shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, a list of geographical coordinates of points, specifying the geodetic datum, may be substituted.

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

SECTION 4. CONTIGUOUS ZONE

Article 33
Contiguous zone

1. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:

(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;

(b) punish infringement of the above laws and regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

PART IV
ARCHIPELAGIC STATES

...

Article 47
Archipelagic baselines

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.

2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.

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

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

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

6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.

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

8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted.

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

Article 48
Measurement of the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf

The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from archipelagic baselines drawn in accordance with article 47.

...

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

1. Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

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

PART V
EXCLUSIVE ECONOMIC ZONE

...

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

1. In the exclusive economic zone, the coastal State has:

(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;

(b) jurisdiction as provided for in the relevant provisions of this Convention with regard to:

(i) the establishment and use of artificial islands, installations and structures;

(ii) marine scientific research;

(iii) the protection and preservation of the marine environment;

(c) other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article with respect to the seabed and subsoil shall be exercised in accordance with Part VI.

Article 57
Breadth of the exclusive economic zone

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

...

Article 60
Artificial islands, installations and structures in the exclusive economic zone

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

(a) artificial islands;

(b) installations and structures for the purposes provided for in article 56 and other economic purposes;

(c) installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

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

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

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

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

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

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

8. Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

...

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

1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

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

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

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

Article 75
Charts and lists of geographical coordinates

1. Subject to this Part, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 74 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

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

PART VI
CONTINENTAL SHELF

Article 76
Definition of the continental shelf

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

2. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 to 6.

3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the seabed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

4. (a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:

(i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or

(ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.

(b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

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

6. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations

that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

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

8. Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

Article 77
Rights of the coastal State over the continental shelf

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

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

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

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

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

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

2. The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

...

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

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

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

1. The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

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

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

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

Article 84
Charts and lists of geographical coordinates

1. Subject to this Part, the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 83 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical coordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical coordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations and, in the case of those showing the outer limit lines of the continental shelf, with the Secretary-General of the Authority.

PART VIII
REGIME OF ISLANDS

Article 121
Regime of islands

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

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

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

PART XV
SETTLEMENT OF DISPUTES

SECTION 1. GENERAL PROVISIONS

Article 279
Obligation to settle disputes by peaceful means

States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter.

Article 280
Settlement of disputes by any peaceful means chosen by the parties

Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice.

Article 281
Procedure where no settlement has been reached by the parties

1. If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure.

2. If the parties have also agreed on a time-limit, paragraph 1 applies only upon the expiration of that time-limit.

Article 282
Obligations under general, regional or bilateral agreements

If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed, through a general, regional or bilateral agreement or otherwise, that such dispute shall, at the request of any party to the dispute, be submitted to a procedure that entails a binding decision, that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute otherwise agree.

Article 283
Obligation to exchange views

1. When a dispute arises between States Parties concerning the interpretation or application of this Convention, the parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiation or other peaceful means.

2. The parties shall also proceed expeditiously to an exchange of views where a procedure for the settlement of such a dispute has been terminated without a settlement or where a settlement has been reached and the circumstances require consultation regarding the manner of implementing the settlement.

Article 284
Conciliation

1. A State Party which is a party to a dispute concerning the interpretation or application of this Convention may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure under Annex V, section 1, or another conciliation procedure.

2. If the invitation is accepted and if the parties agree upon the conciliation procedure to be applied, any party may submit the dispute to that procedure.

3. If the invitation is not accepted or the parties do not agree upon the procedure, the conciliation proceedings shall be deemed to be terminated.

4. Unless the parties otherwise agree, when a dispute has been submitted to conciliation, the proceedings may be terminated only in accordance with the agreed conciliation procedure.

...

SECTION 2. COMPULSORY PROCEDURES ENTAILING BINDING DECISIONS

Article 286
Application of procedures under this section

Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

Article 287
Choice of procedure

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

(a) the International Tribunal for the Law of the Sea established in accordance with Annex VI;

(b) the International Court of Justice;

(c) an arbitral tribunal constituted in accordance with Annex VII;

(d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

2. A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

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

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

6. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

7. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this article, unless the parties otherwise agree.

8. Declarations and notices referred to in this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 288
Jurisdiction

1. A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.

2. A court or tribunal referred to in article 287 shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement.

3. The Seabed Disputes Chamber of the International Tribunal for the Law of the Sea established in accordance with Annex VI, and any other chamber or arbitral tribunal referred to in Part XI, section 5, shall have jurisdiction in any matter which is submitted to it in accordance therewith.

4. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.

Article 289
Experts

In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this section may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII, article 2, to sit with the court or tribunal but without the right to vote.

Article 290
Provisional measures

1. If a dispute has been duly submitted to a court or tribunal which considers that *prima facie* it has jurisdiction under this Part or Part XI, section 5, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision.

2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.

3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

4. The court or tribunal shall forthwith give notice to the parties to the dispute, and to such other States Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.

5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under this section, any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Tribunal for the Law of the Sea or, with respect to activities in the Area, the Seabed Disputes Chamber, may prescribe, modify or revoke provisional measures in accordance with this article if it considers that *prima facie* the tribunal which is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.

6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

Article 291
Access

1. All the dispute settlement procedures specified in this Part shall be open to States Parties.

2. The dispute settlement procedures specified in this Part shall be open to entities other than States Parties only as specifically provided for in this Convention.

Article 293
Applicable law

1. A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention.

2. Paragraph 1 does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case *ex aequo et bono*, if the parties so agree.

Article 294
Preliminary proceedings

1. A court or tribunal provided for in article 287 to which an application is made in respect of a dispute referred to in article 297 shall determine at the request of a party, or may determine *proprio motu*, whether the claim constitutes an abuse of legal process or whether *prima facie* it is well founded. If the court or tribunal determines that the claim constitutes an abuse of legal process or is *prima facie* unfounded, it shall take no further action in the case.

2. Upon receipt of the application, the court or tribunal shall immediately notify the other party or parties of the application, and shall fix a reasonable time-limit within which they may request it to make a determination in accordance with paragraph 1.

3. Nothing in this article affects the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure.

...

Article 296
Finality and binding force of decisions

1. Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute.

2. Any such decision shall have no binding force except between the parties and in respect of that particular dispute.

SECTION 3. LIMITATIONS AND EXCEPTIONS TO APPLICABILITY OF SECTION 2

...

Article 298
Optional exceptions to applicability of section 2

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes:

(a) (i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this

Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission;

(ii) after the conciliation commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2, unless the parties otherwise agree;

(iii) this subparagraph does not apply to any sea boundary dispute finally settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding upon those parties;

(b) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3;

(c) disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention.

2. A State Party which has made a declaration under paragraph 1 may at any time withdraw it, or agree to submit a dispute excluded by such declaration to any procedure specified in this Convention.

3. A State Party which has made a declaration under paragraph 1 shall not be entitled to submit any dispute falling within the excepted category of disputes to any procedure in this Convention as against another State Party, without the consent of that party.

4. If one of the States Parties has made a declaration under paragraph 1(a), any other State Party may submit any dispute falling within an excepted category against the declarant party to the procedure specified in such declaration.

5. A new declaration, or the withdrawal of a declaration, does not in any way affect proceedings pending before a court or tribunal in accordance with this article, unless the parties otherwise agree.

6. Declarations and notices of withdrawal of declarations under this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 299
Right of the parties to agree upon a procedure

1. A dispute excluded under article 297 or excepted by a declaration made under article 298 from the dispute settlement procedures provided for in section 2 may be submitted to such procedures only by agreement of the parties to the dispute.

2. Nothing in this section impairs the right of the parties to the dispute to agree to some other procedure for the settlement of such dispute or to reach an amicable settlement.

PART XVI
GENERAL PROVISIONS

Article 300
Good faith and abuse of rights

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.

Article 301
Peaceful uses of the seas

In exercising their rights and performing their duties under this Convention, States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations.

Article 302
Disclosure of information

Without prejudice to the right of a State Party to resort to the procedures for the settlement of disputes provided for in this Convention, nothing in this Convention shall be deemed to require a State Party, in the fulfilment of its obligations under this Convention, to supply information the disclosure of which is contrary to the essential interests of its security.

ANNEX V. CONCILIATION

SECTION 1. CONCILIATION PROCEDURE PURSUANT TO SECTION 1 OF PART XV

Article 1
Institution of proceedings

If the parties to a dispute have agreed, in accordance with article 284, to submit it to conciliation under this section, any such party may institute the proceedings by written notification addressed to the other party or parties to the dispute.

Article 2
List of conciliators

A list of conciliators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary. The name of a conciliator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such conciliator shall continue to serve on any conciliation commission to which that conciliator has been appointed until the completion of the proceedings before that commission.

Article 3
Constitution of conciliation commission

The conciliation commission shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the conciliation commission shall consist of five members.

(b) The party instituting the proceedings shall appoint two conciliators to be chosen preferably from the list referred to in article 2 of this Annex, one of whom may be its national, unless the parties otherwise agree. Such appointments shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall appoint two conciliators in the manner set forth in subparagraph (b) within 21 days of receipt of the notification referred to in article 1 of this Annex. If the appointments are not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General of the United Nations to make the appointments in accordance with subparagraph (e).

(d) Within 30 days after all four conciliators have been appointed, they shall appoint a fifth conciliator chosen from the list referred to in article 2 of this Annex, who shall be chairman. If the appointment is not made within that period, either party may, within one week of the expiration of that period, request the Secretary-General of the United Nations to make the appointment in accordance with subparagraph (e).

(e) Within 30 days of the receipt of a request under subparagraph (c) or (d), the Secretary-General of the United Nations shall make the necessary appointments from the list referred to in article 2 of this Annex in consultation with the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Two or more parties which determine by agreement that they are in the same interest shall appoint two conciliators jointly. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint conciliators separately.

(h) In disputes involving more than two parties having separate interests, or where there is disagreement as to whether they are of the same interest, the parties shall apply subparagraphs (a) to (f) in so far as possible.

Article 4
Procedure

The conciliation commission shall, unless the parties otherwise agree, determine its own procedure. The commission may, with the consent of the parties to the dispute, invite any State Party to submit to it its views orally or in writing. Decisions of the commission regarding procedural matters, the report and recommendations shall be made by a majority vote of its members.

Article 5
Amicable settlement

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

Article 6
Functions of the commission

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

Article 7
Report

1. The commission shall report within 12 months of its constitution. Its report shall record any agreements reached and, failing agreement, its conclusions on all questions of fact or law relevant to the matter in dispute and such recommendations as the commission may deem appropriate for an amicable settlement. The report shall be deposited with the Secretary-General of the United Nations and shall immediately be transmitted by him to the parties to the dispute.

2. The report of the commission, including its conclusions or recommendations, shall not be binding upon the parties.

Article 8
Termination

The conciliation proceedings are terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by written notification addressed to the Secretary-General of the United Nations, or when a period of three months has expired from the date of transmission of the report to the parties.

Article 9
Fees and expenses

The fees and expenses of the commission shall be borne by the parties to the dispute.

Article 10
Right of parties to modify procedure

The parties to the dispute may by agreement applicable solely to that dispute modify any provision of this Annex.

SECTION 2. COMPULSORY SUBMISSION TO CONCILIATION PROCEDURE PURSUANT TO SECTION 3 OF PART XV

Article 11
Institution of proceedings

1. Any party to a dispute which, in accordance with Part XV, section 3, may be submitted to conciliation under this section, may institute the proceedings by written notification addressed to the other party or parties to the dispute.

2. Any party to the dispute, notified under paragraph 1, shall be obliged to submit to such proceedings.

Article 12
Failure to reply or to submit to conciliation

The failure of a party or parties to the dispute to reply to notification of institution of proceedings or to submit to such proceedings shall not constitute a bar to the proceedings.

Article 13
Competence

A disagreement as to whether a conciliation commission acting under this section has competence shall be decided by the commission.

Article 14
Application of section 1

Articles 2 to 10 of section 1 of this Annex apply subject to this section.

ANNEX VII. ARBITRATION

Article 1
Institution of proceedings

Subject to the provisions of Part XV, any party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2
List of arbitrators

1. A list of arbitrators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four arbitrators, each of whom shall be a person experienced in maritime affairs and enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list.

2. If at any time the arbitrators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary.

3. The name of an arbitrator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such arbitrator shall continue to serve on any arbitral tribunal to which that arbitrator has been appointed until the completion of the proceedings before that arbitral tribunal.

Article 3
Constitution of arbitral tribunal

For the purpose of proceedings under this Annex, the arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the arbitral tribunal shall consist of five members.

(b) The party instituting the proceedings shall appoint one member to be chosen preferably from the list referred to in article 2 of this Annex, who may be its national. The appointment shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint one member to be chosen preferably from the list, who may be its national. If the appointment is not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointment be made in accordance with subparagraph (e).

(d) The other three members shall be appointed by agreement between the parties. They shall be chosen preferably from the list and shall be nationals of third States unless the parties otherwise agree. The parties to the dispute shall appoint the President of the arbitral tribunal from among those three members. If, within 60 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of one or more of the members of the tribunal to be appointed by agreement, or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 60-day period.

(e) Unless the parties agree that any appointment under subparagraphs (c) and (d) be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments. If the President is unable to act under this subparagraph or is a national of one of the parties to the dispute, the appointment shall be made by the next senior member of the International Tribunal for the Law of the Sea who is available and is not a national of one of the parties. The appointments referred to in this subparagraph shall be made from the list referred to in article 2 of this Annex within a period of 30 days of the receipt of the request and in consultation with the parties. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Parties in the same interest shall appoint one member of the tribunal jointly by agreement. Where there are several parties having separate interests or where there

is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal. The number of members of the tribunal appointed separately by the parties shall always be smaller by one than the number of members of the tribunal to be appointed jointly by the parties.

(h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

Article 4
Functions of arbitral tribunal

An arbitral tribunal constituted under article 3 of this Annex shall function in accordance with this Annex and the other provisions of this Convention.

Article 5
Procedure

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case.

Article 6
Duties of parties to a dispute

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

(a) provide it with all relevant documents, facilities and information; and

(b) enable it when necessary to call witnesses or experts and receive their evidence and to visit the localities to which the case relates.

Article 7
Expenses

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

Article 8
Required majority for decisions

Decisions of the arbitral tribunal shall be taken by a majority vote of its members. The absence or abstention of less than half of the members shall not constitute a bar to the tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

Article 9
Default of appearance

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

Article 10
Award

The award of the arbitral tribunal shall be confined to the subject-matter of the dispute and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the award. Any member of the tribunal may attach a separate or dissenting opinion to the award.

Article 11
Finality of award

The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute.

Article 12
Interpretation or implementation of award

1. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the award may be submitted by either party for decision to the arbitral tribunal which made the award. For this purpose, any vacancy in the tribunal shall be filled in the manner provided for in the original appointments of the members of the tribunal.

2. Any such controversy may be submitted to another court or tribunal under article 287 by agreement of all the parties to the dispute.

Article 13
Application to entities other than States Parties

The provisions of this Annex shall apply *mutatis mutandis* to any dispute involving entities other than States Parties.

ANNEX VIII. SPECIAL ARBITRATION

Article 1
Institution of proceedings

Subject to Part XV, any party to a dispute concerning the interpretation or application of the articles of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may submit the dispute to the special arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2
Lists of experts

1. A list of experts shall be established and maintained in respect of each of the fields of (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping.

2. The lists of experts shall be drawn up and maintained, in the field of fisheries by the Food and Agriculture Organization of the United Nations, in the field of protection and preservation of the marine environment by the United Nations Environment Programme, in the field of marine scientific research by the Intergovernmental Oceanographic Commission, in the field of navigation, including pollution from vessels and by dumping, by the International Maritime Organization, or in each case by the appropriate subsidiary body concerned to which such organization, programme or commission has delegated this function.

3. Every State Party shall be entitled to nominate two experts in each field whose competence in the legal, scientific or technical aspects of such field is established and generally recognized and who enjoy the highest reputation for fairness and integrity. The names of the persons so nominated in each field shall constitute the appropriate list.

4. If at any time the experts nominated by a State Party in the list so constituted shall be fewer than two, that State Party shall be entitled to make further nominations as necessary.

5. The name of an expert shall remain on the list until withdrawn by the State Party which made the nomination, provided that such expert shall continue to serve on any special arbitral tribunal to which that expert has been appointed until the completion of the proceedings before that special arbitral tribunal.

Article 3
Constitution of special arbitral tribunal

For the purpose of proceedings under this Annex, the special arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the special arbitral tribunal shall consist of five members.

(b) The party instituting the proceedings shall appoint two members to be chosen preferably from the appropriate list or lists referred to in article 2 of this Annex relating to the matters in dispute, one of whom may be its national. The appointments shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint two members to be chosen preferably from the appropriate list or lists relating to the matters in dispute, one of whom may be its national. If the appointments are not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointments be made in accordance with subparagraph (e).

(d) The parties to the dispute shall by agreement appoint the President of the special arbitral tribunal, chosen preferably from the appropriate list, who shall be a national of a third State, unless the parties otherwise agree. If, within 30 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of the President, the appointment shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 30-day period.

(e) Unless the parties agree that the appointment be made by a person or a third State chosen by the parties, the Secretary-General of the United Nations shall make the necessary appointments within 30 days of receipt of a request under subparagraphs (c) and (d). The appointments referred to in this subparagraph shall be made from the appropriate list or lists of experts referred to in article 2 of this Annex and in consultation with the parties to the dispute and the appropriate international organization. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Parties in the same interest shall appoint two members of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal.

(h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

Article 4
General provisions

Annex VII, articles 4 to 13, apply *mutatis mutandis* to the special arbitration proceedings in accordance with this Annex.

Article 5
Fact-finding

1. The parties to a dispute concerning the interpretation or application of the provisions of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may at any time agree to request a special arbitral tribunal constituted in accordance with article 3 of this Annex to carry out an inquiry and establish the facts giving rise to the dispute.

2. Unless the parties otherwise agree, the findings of fact of the special arbitral tribunal acting in accordance with paragraph 1, shall be considered as conclusive as between the parties.

3. If all the parties to the dispute so request, the special arbitral tribunal may formulate recommendations which, without having the force of a decision, shall only constitute the basis for a review by the parties of the questions giving rise to the dispute.

4. Subject to paragraph 2, the special arbitral tribunal shall act in accordance with the provisions of this Annex, unless the parties otherwise agree.

B. Convention on the Territorial Sea and the Contiguous Zone [2]

(Geneva, 29 April 1958)

...

PART I. TERRITORIAL SEA

SECTION II. LIMITS OF THE TERRITORIAL SEA

Article 3

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

Article 4

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

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

3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.

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

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

6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

Article 5

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article 4 has the effect of

[2] United Nations, *Treaty Series*, vol. 516, p. 205.

enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 14 to 23, shall exist in those waters.

Article 6

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

Article 7

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

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

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

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

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

6. The foregoing provisions shall not apply to so-called " historic " bays, or in any case where the straight baseline system provided for in article 4 is applied.

Article 8

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Article 9

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

are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

Article 10

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

2. The territorial sea of an island is measured in accordance with the provisions of these articles.

Article 11

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

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

Article 12

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

Article 13

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

...

PART II. CONTIGUOUS ZONE

Article 24

1. ...

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

C. Convention on the Continental Shelf [3]

(Geneva, 29 April 1958)

Article 1

For the purpose of these articles, the term "continental shelf" is used as referring

(a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas;

(b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

...

Article 5

1. ...

2. ... the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3. ...

4. Such installations and devices, though under the jurisdiction of the coastal State, 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 of the coastal State.

...

[3] United Nations, *Treaty Series*, vol. 499, p. 311.

Article 6

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

...

ANNEX II. UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 53/101 - PRINCIPLES AND GUIDELINES FOR INTERNATIONAL NEGOTIATIONS

The General Assembly,

Recalling the purposes and principles of the Charter of the United Nations,

Reaffirming the provisions of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations [1] and of the Manila Declaration on the Peaceful Settlement of International Disputes, [2]

Taking into account the objectives of the United Nations Decade of International Law,

Considering that international negotiations constitute a flexible and effective means for, among other things, the peaceful settlement of disputes among States and for the creation of new international norms of conduct,

Bearing in mind that in their negotiations States should be guided by the relevant principles and rules of international law,

Conscious of the existence of different means of peaceful settlement of disputes, as enshrined in the Charter and recognized by international law, and reaffirming, in this context, the right of free choice of those means,

Bearing in mind the important role that constructive and effective negotiations can play in attaining the purposes of the Charter by contributing to the management of international relations, the peaceful settlement of disputes and the creation of new international norms of conduct of States,

Noting that the identification of principles and guidelines of relevance to international negotiations could contribute to enhancing the predictability of negotiating parties, reducing uncertainty and promoting an atmosphere of trust at negotiations,

Recognizing that the following could offer a general, non-exhaustive frame of reference for negotiations,

---

1 Resolution 2625 (XXV), annex.

2 Resolution 37/10, annex.

1. *Reaffirms* the following principles of international law which are of relevance to international negotiations:

(*a*) Sovereign equality of all States, notwithstanding differences of an economic, social, political or other nature;

(*b*) States have the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations;

(*c*) States have the duty to fulfil in good faith their obligations under international law;

(*d*) States have the duty to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(*e*) Any agreement is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter;

(*f*) States have the duty to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international cooperation free from discrimination based on such differences;

(*g*) States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;

2. *Affirms* the importance of conducting negotiations in accordance with international law in a manner compatible with and conducive to the achievement of the stated objective of negotiations and in line with the following guidelines:

(*a*) Negotiations should be conducted in good faith;

(*b*) States should take due account of the importance of engaging, in an appropriate manner, in international negotiations the States whose vital interests are directly affected by the matters in question;

(*c*) The purpose and object of all negotiations must be fully compatible with the principles and norms of international law, including the provisions of the Charter;

(d) States should adhere to the mutually agreed framework for conducting negotiations;

(*e*) States should endeavour to maintain a constructive atmosphere during negotiations and to refrain from any conduct which might undermine the negotiations and their progress;

(*f*) States should facilitate the pursuit or conclusion of negotiations by remaining focused throughout on the main objectives of the negotiations;

(*g*) States should use their best endeavours to continue to work towards a mutually acceptable and just solution in the event of an impasse in negotiations.

83rd plenary meeting
8 December 1998

ANNEX III. LIST OF MARITIME BOUNDARY AGREEMENTS REFERRED TO IN THE HANDBOOK

Declaration on the maritime zone, 18 August 1952

Bahrain-Saudi Arabia boundary agreement, 22 February 1958

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway relating to the delimitation of the continental shelf between the two countries, 10 March 1965

Agreement concerning the boundary line dividing the continental shelf between Iran and Qatar, 20 September 1969

Treaty between the Republic of Indonesia and Malaysia relating to the delimitation of the territorial seas of the two countries in the Strait of Malacca, 17 March 1970

Treaty between the Kingdom of Denmark and the Federal Republic of Germany concerning the delimitation of the continental shelf under the North Sea, 28 January 1971

Treaty between the Kingdom of the Netherlands and the Federal Republic of Germany concerning the delimitation of the continental shelf under the North Sea, 28 January 1971

Agreement between the Government of the Republic of Tunisia and the Government of the Italian Republic concerning the delimitation of the continental shelf between the two countries (with annexed agreed minutes, dated 23 January 1971 and map), 20 August 1971

Exchange of notes constituting an Agreement between the Government of Brazil and the Government of Uruguay on the definitive demarcation of the sea outlet of the Arroyo Chuí and the lateral maritime border, 21 July 1972

Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia establishing certain seabed boundaries in the area of the Timor and Arafura Seas, supplementary to the Agreement of 18 May 1971, 9 October 1972

Agreement stipulating the territorial sea boundary lines between Indonesia and the Republic of Singapore in the Strait of Singapore, 25 May 1973

Treaty concerning the Río de la Plata and the corresponding maritime boundary, 19 November 1973

Agreement between the Government of the Kingdom of Denmark and the Government of Canada relating to the delimitation of the continental shelf between Greenland and Canada (with annexes), 17 December 1973

Convention between France and Spain on the delimitation of the territorial sea and the contiguous zone in the Bay of Biscay (Golfe de Gascogne/Golfo de Vizcaya) (with map), 29 January 1974

Convention between Spain and Italy on the delimitation of the continental shelf between the two States (with chart), 19 February 1974

Agreement between Sri Lanka and India on the boundary in historic waters between the two countries and related matters (with map), 26 and 28 June 1974

Maritime boundaries: The Gambia /Senegal, 4 June 1975

Treaty between the Italian Republic and the Socialist Federal Republic of Yugoslavia, 10 November 1975

Agreement between the Government of the Kingdom of Thailand and the Government of the Republic of Indonesia relating to the delimitation of the seabed boundary between the two countries in the Andaman Sea (with charts), 11 December 1975

Agreement between Sri Lanka and India on the maritime boundary between the two countries in the Gulf of Mannar and the Bay of Bengal and related matters (with map), 23 March 1976

Agreement between Portugal and Spain on the delimitation of the continental shelf, 12 February 1976

Exchange of notes between the United Republic of Tanzania and Kenya concerning the delimitation of the territorial waters boundary between the two States (with map), 17 December 1975 - 9 July 1976

Exchange of notes constituting an Agreement on the delimitation of the exclusive economic zone of Mexico in the bordering area with Cuban waters (with map), 26 July 1976

Agreement between Sri Lanka, India and Maldives concerning the determination of the trijunction point between the three countries in the Gulf of Mannar, 23, 24 and 31 July 1976

Supplementary Agreement between Sri Lanka and India on the extension of the maritime boundary between the two countries in the Gulf of Mannar from position 13 m to the trijunction point between Sri Lanka, India and Maldives (point T), 22 November 1976

Treaty on the delimitation of marine and submarine areas and related matters between the Republic of Panama and the Republic of Colombia (with maps), 20 November 1976

Cuba - United States of America: Maritime boundary - Modus Vivendi effected by exchange of letters, 27 April 1977

Agreement between the Republic of Haiti and the Republic of Cuba regarding the delimitation of maritime boundaries between the two States, 27 October 1977

Agreement on delimitation of marine and submarine areas and maritime cooperation between the Republic of Colombia and the Dominican Republic (with map), 13 January 1978

Maritime Boundary Treaty between the United States of America and the Republic of Venezuela (with map), 28 March 1978

Boundary Delimitation Treaty between the Republic of Venezuela and the Kingdom of the Netherlands (with map), 31 March 1978

Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as Torres Strait, and related matters, 18 December 1978

Agreement between the Government of the Kingdom of Denmark and the Government of the Kingdom of Norway concerning the delimitation of the continental shelf in the area between the Faroe Islands and Norway and concerning the boundary between the fishery zone near the Faroe Islands and the Norwegian economic zone, 15 June 1979

Convention between the Government of the French Republic (Wallis and Futuna) and the Government of the Kingdom of Tonga on the delimitation of economic zones, 11 January 1980

Treaty between the Unites States of America and the Cook Islands on friendship and delimitation of the maritime boundary between the United States of America and the Cook Islands, 11 June 1980

Delimitation Treaty between the Government of the French Republic (Martinique and Guadeloupe) and the Government of the Republic of Venezuela (with map), 17 July 1980

Agreement between Iceland and Norway on the continental shelf in the area between Iceland and Jan Mayen, 22 October 1981

Agreement on marine delimitation between the Government of Australia and the Government of the French Republic, 4 January 1982

Agreement between the Government of the Republic of France and the Government of Fiji relating to the delimitation of their economic zones (with annex and maps), 19 January 1983

Maritime Delimitation Agreement between the Government of His Most Serene Highness the Prince of Monaco and the Government of the French Republic (with map), 16 February 1984

Treaty of Peace and Friendship, 29 November 1984

Agreement between the Government of the Republic of Finland and the Government of the Union of Soviet Socialist Republics regarding the delimitation of the economic zone, the fishing zone and the continental shelf in the Gulf of Finland and in the North-Eastern part of the Baltic Sea, 5 February 1985

Maritime Delimitation Treaty between Colombia and Honduras, 2 August 1986

Agreement between the Government of the French Republic and the Government of the Italian Republic on the delimitation of the maritime boundaries in the area of the Strait of Bonifacio, 28 November 1986

Agreement on maritime delimitation between the Government of the French Republic and the Government of Dominica (with map), 7 September 1987

Agreement between the Government of the Kingdom of Sweden and the Government of the Union of Soviet Socialist Republics concerning the delimitation of the continental shelf and of the Swedish fishing zone and the Soviet economic zone in the Baltic Sea (with nautical charts and Protocol), 18 April 1988

Agreement between the Government of Solomon Islands and the Government of Australia establishing certain sea and seabed boundaries, 13 September 1988

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland concerning the delimitation of areas of the continental shelf between the two countries, 7 November 1988

Agreement between the Government of the Kingdom of Sweden, the Government of the People's Republic of Poland and the Government of the USSR concerning the junction point of the maritime boundaries in the Baltic, 30 June 1989

Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an area between the Indonesian Province of East Timor and Northern Australia, 11 December 1989

Treaty between the Republic of Trinidad and Tobago and the Republic of Venezuela on the delimitation of marine and submarine areas (with map and exchange of notes), 18 April 1990

Agreement between the Government of the French Republic and the Government of the Kingdom of Belgium on the delimitation of the territorial sea (with map), 8 October 1990

Agreement between the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the completion of the delimitation of the continental shelf in the southern North Sea, 23 July 1991

Treaty between the Kingdom of the Netherlands and the Kingdom of Belgium on the delimitation of the territorial sea, 18 December 1996

Treaty between the Kingdom of the Netherlands and the Kingdom of Belgium on the delimitation of the continental shelf, 18 December 1996

Treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries, 14 March 1997

Agreement between the Government of the Kingdom of Denmark together with the Home Government of the Faroe Islands, on the one hand, and the Government of the United Kingdom of Great Britain and Northern Ireland, on the other hand, relating to maritime delimitation in the area between the Faroe Islands and the United Kingdom, 18 May 1999

Treaty regarding the delimitation of the maritime boundary between the Republic of Equatorial Guinea and the Democratic Republic of Sao Tome and Principe, 26 June 1999

ANNEX IV. CASES ADJUDICATED BY THE INTERNATIONAL COURT OF JUSTICE OR BY AN INTERNATIONAL ARBITRAL TRIBUNAL

The International Court of Justice has rendered the following judgments, which touched upon, in whole or in part, a maritime boundary delimitation:

(a) 18 December 1951: Fisheries (United Kingdom v. Norway);

(b) 20 February 1969: North Sea Continental Shelf (Federal Republic of Germany/Denmark and Federal Republic of Germany/Netherlands);

(c) 25 July 1974: Fisheries Jurisdiction (United Kingdom v. Iceland and Federal Republic of Germany v. Iceland);

(d) 14 April 1981: Continental Shelf (Tunisia/Libyan Arab Jamahiriya), Application for Permission to Intervene;

(e) 24 February 1982: Continental Shelf (Tunisia/Libyan Arab Jamahiriya);

(f) 21 March 1984: Continental Shelf (Libyan Arab Jamahiriya/Malta), Application for Permission to Intervene;

(g) 12 October 1984: Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America);

(h) 3 June 1985: Continental Shelf (Libyan Arab Jamahiriya/Malta);

(i) 10 December 1985: Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya);

(j) 13 September 1990: Land, Island and Maritime Frontier Dispute (El Salvador/Honduras), Application for Permission to Intervene;

(k) 11 September 1992: Land, Islands and Maritime Frontier Dispute (El Salvador/Honduras);

(l) 14 June 1993: Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway).

Since 1945, ad hoc international tribunals have rendered the following awards, which touched upon, in whole or in part, a maritime boundary delimitation:

(a) 18 April 1977: case concerning a dispute between Argentina and Chile concerning the Beagle Channel;

(b) 30 June 1977: case concerning the delimitation of the continental shelf between the United Kingdom of Great Britain and Northern Ireland and the French Republic;

(c) 14 February 1985: case concerning the delimitation of the maritime boundary between Guinea and Guinea-Bissau;

(d) 31 July 1989: case concerning the delimitation of the maritime boundary between Guinea-Bissau and Senegal ; see also the Judgment of the International Court of Justice of 12 November 1991;

(e) 10 June 1992: case concerning the delimitation of maritime areas between Canada and France (Saint-Pierre-et-Miquelon);

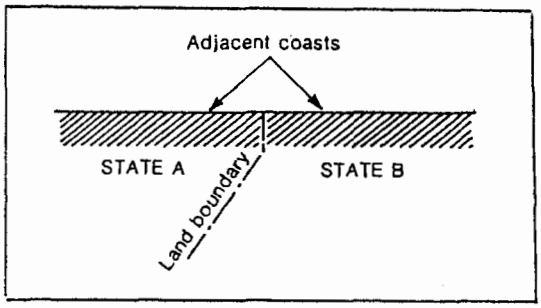
(f) 9 October 1998 (Phase I: Territorial Sovereignty and Scope of Dispute); and 17 December 1999 (Phase II: Maritime Delimitation): case between Eritrea and Yemen.

ANNEX V. TECHNICAL TERMINOLOGY [1]

ADJACENT COASTS

The coasts lying either side of the land boundary between two adjoining States.

Figure 1 - Adjacent Coasts



ARCHIPELAGIC BASELINES

See: BASELINE.

ARCHIPELAGIC STATE

As defined in article 46.

See: ARCHIPELAGIC WATERS; BASELINE; ISLANDS.

ARCHIPELAGIC WATERS

The waters enclosed by archipelagic baselines.

See: articles 46, 47, 49.

See: ARCHIPELAGIC STATE; BASELINE; INTERNAL WATERS.

ARTIFICIAL ISLAND

See: INSTALLATION (OFFSHORE).

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[1] Selected terminology from A Manual on Technical Aspects of the United Nations Convention on the Law of the Sea,1982, Special Publication No. 51, 3rd edition, (Monaco, International Hydrographic Bureau, July 1993).

N.B. All article references in the terminology list are to articles of the 1982 Convention.

ATOLL

A ring-shaped reef with or without an island situated on it surrounded by the open sea, that encloses or nearly encloses a lagoon.

An atoll is usually formed on the top of a submerged volcano by coral polyps.

Where islands are situated on atolls the territorial sea baseline is the seaward low-water line of the reef as shown by the appropriate symbol on charts officially recognized by the coastal State (art. 6).

For the purpose of computing the ratio of water to land when establishing archipelagic waters, atolls and the waters contained within them may be included as part of the land area (art. 47, para. 7).

See: ARCHIPELAGIC WATERS; BASELINE; ISLANDS; LOW-WATER LINE; REEF.

BANK

With reference to article 76, para. 6:

A submarine elevation located on a continental margin over which the depth of water is relatively shallow.

With reference to article 9 it is that portion of land that confines a river.

It could also be a shallow area of shifting sand, gravel, mud, etc., such as a sand bank or a mud bank usually occurring in relatively shallow waters and constituting a danger to navigation.

See: CONTINENTAL SHELF, LOW-TIDE ELEVATION.

BASELINE

The line from which the outer limits of a State's territorial sea and certain other outer limits of coastal State jurisdiction are measured.

The term refers to the baseline from which the breadth of the territorial sea, the outer limits of the contiguous zone (art. 33, para. 2), the exclusive economic zone (art. 57) and, in some cases, the continental shelf (art. 76) are measured. It is also the dividing line between internal waters and territorial seas.

The type of the territorial sea baseline may vary depending on the geographical configuration of the locality, etc.

The "normal baseline" is the low-water line along the coast (including the coasts of islands) as marked on large-scale charts officially recognized by the coastal State (arts. 5 and 121, para. 2).

See: LOW-WATER LINE.

In the case of islands situated on atolls or of islands having fringing reefs, the baseline is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State (art. 6).

Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as part of the baseline (art. 13).

See: LOW-TIDE ELEVATION.

Straight baselines are a system of straight lines joining specified or discrete points on the low-water line, usually known as straight baseline turning points, which may be used only 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 (art. 7, para. 1).

See: STRAIGHT LINE.

Archipelagic baselines are straight lines joining the outermost points of the outermost islands and drying reefs which may be used to enclose all or part of an archipelago which forms all or part of an archipelagic State (art. 47).

BASEPOINT

A basepoint is any point on the baseline. In the method of straight baselines, where one straight baseline meets another baseline at a common point, one line may be said to "turn" at that point to form another baseline. Such a point may be termed a "baseline turning point" or simply "basepoint".

BAY

For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semicircle whose diameter is a line drawn across the mouth of that indentation (art. 10, para. 2).

This definition is purely legal and is applicable only in relation to the determination of the limits of maritime zones. It is distinct from and does not replace the geographical definitions used in other contexts.

This definition does not apply to "historic" bays (art. 10, para. 6).

See: HISTORIC BAYS.

CAP

With reference to article 76, paragraph 6:

A submarine feature with a rounded, cap-like top. Also defined as a plateau or flat area of considerable extent, dropping off abruptly on one or more sides.

CHART

A NAUTICAL CHART specially designed to meet the needs of marine navigation. It depicts such information as depths of water, nature of the seabed, configuration and nature of the coast, dangers and aids to navigation, in a standardized format; also called, simply, chart.

See: BASELINE; COAST; DANGER TO NAVIGATION; GEODETIC DATUM; LOW-WATER LINE; SEABED.

CLOSING LINE

A dividing line between the internal waters and the territorial seas of a coastal State enclosing a river mouth (art. 9), a bay (art. 10) or a harbour (art. 11); of the archipelagic waters of an archipelagic State (art. 50).

See: ARCHIPELAGIC STATE; BASELINE; BAY; HARBOUR WORKS; LOW-WATER LINE.

COAST

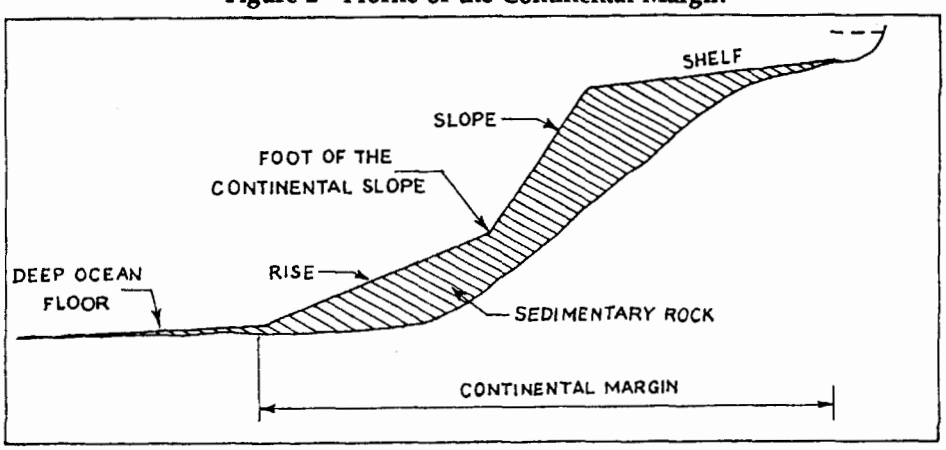
The edge or margin of land next to the sea.

See: BASELINE; LOW-WATER LINE.

CONTINENTAL MARGIN

As defined in article 76, paragraph 3, as follows: "The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the seabed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof".

Figure 2 - Profile of the Continental Margin



See: CONTINENTAL RISE; CONTINENTAL SHELF; CONTINENTAL SLOPE; FOOT OF THE CONTINENTAL SLOPE; DEEP OCEAN FLOOR; SEABED.

CONTINENTAL RISE

A submarine feature which is that part of the continental margin lying between the continental slope and the deep ocean floor; simply called the rise in the Convention.

It usually has a gradient of 0.5° or less and a generally smooth surface consisting of sediment.

See: CONTINENTAL MARGIN; CONTINENTAL SLOPE; DEEP OCEAN FLOOR; FOOT OF THE CONTINENTAL SLOPE.

CONTINENTAL SHELF

For the purposes of the Convention, it is defined in article 76, paragraph 1, as follows:

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

The limits of the continental shelf or continental margin are determined in accordance with the provisions of article 76 of the Convention. If the continental margin extends beyond a 200-nautical mile limit measured from the appropriate baselines, the provisions of article 76, paragraphs 4 to 10, apply.

See: CONTINENTAL MARGIN, OUTER LIMIT.

CONTINENTAL SLOPE

That part of the continental margin that lies between the shelf and the rise. Simply called the slope in article 76, paragraph 3.

The slope may not be uniform or abrupt, and may locally take the form of terraces. The gradients are usually greater than 1.5°.

See: CONTINENTAL MARGIN; CONTINENTAL SHELF; CONTINENTAL RISE; DEEP OCEAN FLOOR; FOOT OF THE CONTINENTAL SLOPE.

DANGER TO NAVIGATION

A hydrographic feature or environmental condition that might hinder, obstruct, endanger or otherwise prevent safe navigation.

DEEP OCEAN FLOOR

The surface lying at the bottom of the deep ocean with its oceanic ridges, beyond the continental margin.

The continental margin does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

See: CONTINENTAL MARGIN; OCEANIC RIDGE; SEABED; SUBMARINE RIDGE; SUBSOIL.

DELTA

A tract of alluvial land enclosed and traversed by the diverging mouths of a river.

In localities where the method of straight baselines is appropriate, and where because of the presence of a delta and other natural conditions the coastline is highly unstable, appropriate basepoints may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with the Convention (art.7, para. 2).

See: BASELINE; LOW-WATER LINE.

EQUIDISTANT LINE

See: MEDIAN LINE.

ESTUARY

The tidal mouth of a river, where the seawater is measurably diluted by the fresh water from the river.

See: BAY; RIVER; DELTA.

FACILITY (PORT)

See: HARBOUR WORKS.

FOOT OF THE CONTINENTAL SLOPE

"In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change of gradient at its base" (art. 76, para. 4(b)).

It is the point where the continental slope meets the continental rise or, if there is no rise, the deep ocean floor.

To determine the maximum change of gradient requires adequate bathymetry covering the slope and a reasonable extent of the rise, from which a series of profiles may be drawn and the point of maximum change of gradient located.

The two methods laid down in article 76, paragraph 4, for determining the outer limit of the continental shelf depend upon the foot of the continental slope.

See: CONTINENTAL RISE; CONTINENTAL SHELF; CONTINENTAL SLOPE.

GEODETIC DATA

Parameters defining geodetic or astronomical reference systems and their mutual relations; horizontal, vertical and/or three dimensional coordinates of points referred to such system; observations of high precision from which such coordinates may be derived; ancillary data such as gravity, deflections of the vertical or geoid separation at points or areas referred to such systems.

See: GEODETIC DATUM; GEODETIC REFERENCE SYSTEMS.

GEODETIC DATUM

A geodetic datum positions and orients a geodetic reference system in relation to the geoid and the astronomical reference system.

A local or regional datum takes a reference ellipsoid to best fit the geoid in its (limited) area of interest and its origin of Cartesian coordinates will usually be displaced from the mass-centre of the earth - but if well oriented, it will have its Cartesian axes parallel to those of the astronomical reference system.

A global datum will normally take the most recent international geodetic reference system (currently GRS 80) which is designed to best fit the global geoid, it will therefore seek to place its origin of Cartesian coordinates at the mass-centre of the earth, with its Cartesian axes well oriented.

If a datum point is used to define a datum, one will specify:

(a) Deflections of the vertical (Astronomic minus geodetic latitude, longitude and azimuth) there - if not zero they will need to satisfy the Laplace equation connecting astronomic and geodetic longitudes and azimuths, or the datum will not be well oriented.

(b) Geoidal separation there, which may or may not be zero.

It is not normal to use a datum point for global datums as the mass-centre requirement cannot then be met.

The locally horizontal component of a (three-dimensional) geodetic datum is also known as the horizontal datum or horizontal reference datum.

The position of a point common to two different surveys on different geodetic datums will be assigned two different sets of geodetic geographical coordinates; it is important therefore to know the geodetic datum when a position is defined.

The datum must be specified when lists of geographicals are used to define the baselines and the limits of some zones of jurisdiction (art. 16, para. 1; art. 47, para. 8; art. 75, para. 1; art. 84, para. 1).

See: BASELINE; GEOGRAPHICAL COORDINATES; GEODETIC DATA; GEODETIC REFERENCE SYSTEMS.

GEODETIC REFERENCE SYSTEMS

A geodetic reference system is defined by specifying an ellipsoid of rotation (also termed a spheroid by United Kingdom/United States geodesists) which requires:

(a) Semi-axis major and flattening; or

(b) Semi-axis major and second zonal gravity harmonic (J).

The second alternative has been adopted by the International Association of Geodesy (they also specify the earth's gravitational constant, GM, and the angular velocity, W) but the two definitions are equivalent in practice.

Points at zero geodetic height lie on the surface of the ellipsoid, while other points are projected down (by the amount of their geodetic height) to the feet of normals to the ellipsoid.

Coordinates are three-dimensional Cartesians referred to an origin at the centre of the spheroid with the z-axis along the axis of symmetry, or geodetic geographicals with an associated geodetic height.

See: GEOGRAPHICAL COORDINATES; GEODETIC DATA; GEODETIC DATUM.

GEOGRAPHICAL COORDINATES

Angular parameters of latitude and longitude which define the position of a point on the earth's surface and which, in conjunction with a height, similarly define positions vertically above or below such a point.

Astronomical latitude and longitude relate to the mean axis of rotation of the earth and the direction of the local plumb-line vertical: latitude is the angle this vertical makes with a plane normal to the rotation axis; longitude is the angle that a plane containing this vertical and a line parallel to the rotation axis makes with a reference plane through the rotation axis (the Greenwich meridian plane).

Geodetic latitude and longitude are similarly defined with the earth's rotation axis replaced by that of the reference ellipsoid (the z-axis); the plumb-line vertical replaced by the normal to the reference ellipsoid; and the plane of the meridian of Greenwich replaced by the xz-coordinate plane of the reference ellipsoid.

Latitude varies from 0 to 90 degrees North or South of the equator; lines joining all points of equal latitude are known as parallels of latitude (or just "parallels").

Longitude varies from 0 to 180 degrees East or West of the Greenwich meridian; lines joining all points of equal longitude are known as meridians.

HARBOUR WORKS

Permanent man-made structures built along the coast which form an integral part of the harbour system, such as jetties, moles, quays or other port facilities, coastal terminals, wharves, breakwaters, sea walls, etc. (art. 11).

Such harbour works may be used as part of the baseline for the purpose of delimiting the territorial sea and other maritime zones.

See: BASELINE; PORT.

HISTORIC BAY

See article 10, paragraph 6. This term has not been defined in the Convention. Historic bays need not meet the requirements prescribed in the definition of "bay" contained in article 10, paragraph 2.

HYDROGRAPHIC SURVEY

The science of measuring and depicting those parameters necessary to describe the precise nature and configuration of the seabed and coastal strip, its geographical relationship to the land mass, and the characteristics and dynamics of the sea.

Hydrographic surveys may be necessary to determine the features that constitute baselines or basepoints and their geographical positions.

During innocent passage, transit passage and archipelagic sea lane passage of foreign ships, including marine scientific research and hydrographic survey ships, no research or survey activities may be carried out without the prior authorization of the coastal State(s) (art.19, para. 2(j); art. 40 and art. 54).

See: BASELINE; GEOGRAPHICAL COORDINATES.

INSTALLATION (OFFSHORE)

Man-made structure in the territorial sea, exclusive economic zone or on the continental shelf usually for the exploration or exploitation of marine resources. They may also be built for other purposes such as marine scientific research, tide observations, etc.

Offshore installations or artificial islands shall not be considered as permanent harbour works (art. 11) and therefore may not be used as part of the baseline from which to measure the breadth of the territorial sea.

Where States may establish straight baselines or archipelagic baselines, low-tide elevations having lighthouses or similar installations may be used as basepoints (art. 7, para. 4, and art. 47, para. 4).

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 (art. 60, para. 8).

Article 60 provides, inter alia, for due notice to be given for the construction or removal of installations, and permanent means for giving warning of their presence must be maintained. Safety zones, not to exceed 500 metres measured from their outer edges, may be established. Any installations abandoned or disused shall be removed, taking into account generally accepted international standards.

ISLANDS

As defined in article 121, paragraph 1.

Maritime zones of islands are referred to in article 121, paragraph 2.

See: ATOLL; BASELINE; CONTIGUOUS ZONE; CONTINENTAL MARGIN; ROCK; TIDE.

ISOBATH

A line representing the horizontal contour of the seabed at a given depth.

See: article 76, paragraph 5.

LATITUDE

See: GEOGRAPHICAL COORDINATES.

LONGITUDE

See: GEOGRAPHICAL COORDINATES.

LOW-TIDE ELEVATION

A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide (art.13, para. 1).

Low-tide elevation is a legal term for what are generally described as drying banks or rocks. On nautical charts they should be distinguishable from islands.

Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the territorial sea (art. 13, para. 1).

Article 7, paragraph 4, and article 47, paragraph 4, refer to the use of low-tide elevations as basepoints in a system of straight baselines or archipelagic baselines.

See: BANK BASELINE; CHART; INSTALLATION (OFFSHORE); LOW-WATER LINE).

LOW-WATER LINE/LOW-WATER MARK

The intersection of the plane of low water with the shore. The line along a coast, or beach, to which the sea recedes at low water.

It is the normal practice for the low-water line to be shown as an identifiable feature on nautical charts unless the scale is too small to distinguish it from the high-water line or where there is no tide so that the high- and low-water lines are the same.

The actual water level to which soundings on a chart are referred is known as Chart Datum.

See: BASELINE; CHART; TIDE.

MEDIAN LINE

A line every point of which is equidistant from the nearest points on the baselines of two States.

It is usual to refer to "median line" in the case of opposite coasts and equidistant line in the case of adjacent coasts, although this distinction is not made in the Convention.

See: ADJACENT COASTS; BASELINE; EQUIDISTANT LINE; OPPOSITE COASTS.

MILE

See: NAUTICAL MILE.

MOUTH (BAY)

Is the entrance to the bay from the ocean?

Article 10, paragraph 2, states that "a bay is a well-marked indentation" etc., and the mouth of that bay is "the mouth of that indentation". Article 10, paragraphs 3; 4 and 5, refer to "natural entrance points of a bay." Thus it can be said that the mouth of a bay lies between its natural entrance points.

In other words, the mouth of a bay is its entrance.

Although some States have developed standards by which to determine natural entrance points to bays, no international standards have been established.

See: BASELINE; BAY; CLOSING LINE; ESTUARY; LOW-WATER LINE.

MOUTH (RIVER)

The place of discharge of a river into the ocean.

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks (art. 9). Note that the French text of the Convention is "Si un fleuve se jette dans la mer sans former d'estuaire ..." (underlining added).

No limit is placed on the length of the line to be drawn.

The fact that the river must flow "directly into the sea" suggests that the mouth should be well marked, but otherwise the comments on the mouth of a bay apply equally to the mouth of a river.

See: BASELINE; CLOSING LINE; ESTUARY; LOW-WATER LINE; RIVER.

NAUTICAL CHART

See: CHART.

NAUTICAL MILE (M)

A unit of distance used primarily in navigation. Most of the maritime nations have accepted the international nautical mile of 1852 metres adopted by the International Hydrographic Organization.

NAVIGATIONAL CHART

See: NAUTICAL CHART.

OCEANIC PLATEAU

A comparatively flat topped elevation of the seabed which rises steeply from the ocean floor and is of considerable extent across the summit.

For the purpose of computing the ratio of water to land enclosed within archipelagic baselines, land areas may, inter alia, include waters lying within that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on its perimeter (art. 47, para. 7).

See: ARCHIPELAGIC STATE; BASELINE.

OCEANIC RIDGE

A long elevation of the deep ocean floor with either irregular or smooth topography and steep sides.

Such ridges are not part of the continental margin (art. 76, para. 3).

See: DEEP OCEAN FLOOR.

OPPOSITE COASTS

The geographical relationship of the coasts of two States facing each other.

Maritime zones of States having opposite coasts may require boundary delimitation to avoid overlap.

OUTER LIMIT

The extent to which a coastal State claims or may claim a specific jurisdiction in accordance with the provisions of the Convention.

In the case of the territorial sea, the contiguous zone and the exclusive economic zone, the outer limits lie at a distance from the nearest point of the territorial sea baseline equal to the breadth of the zone of jurisdiction being measured (art. 4; art. 33, para. 2; and art. 57).

In the case of the continental shelf, where the continental margin extends beyond 200 nautical miles from the baseline from which the territorial sea is measured, the extent of the outer limit is described in detail in article 76.

See: BASELINE; CONTINENTAL MARGIN; CONTINENTAL SHELF; ISOBATH.

PARALLEL OF LATITUDE

See: GEOGRAPHICAL COORDINATES.

PLATFORM

See: INSTALLATION (OFFSHORE).

PORT

A place provided with various installations, terminals and facilities for loading and discharging cargo or passengers.

REEF

A mass of rock or coral which either reaches close to the sea surface or is exposed at low tide.

DRYING REEF. That part of a reef which is above water at low tide but submerged at high tide.

FRINGING REEF. A reef attached directly to the shore or continental land mass, or located in their immediate vicinity.

In the case of islands situated on atolls or of islands having fringing reefs, the baseline is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State (art. 6).

See: ATOLL; BASELINE; ISLAND; LOW-WATER LINE.

RISE

See: CONTINENTAL RISE.

RIVER

A relatively large natural stream of water.

ROADSTEAD

An area near the shore where vessels are intended to anchor in a position of safety; often situated in a shallow indentation of the coast.

"Roadsteads which are normally used for loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea" (art. 12).

In most cases roadsteads are not clearly delimited by natural geographical limits, and the general location is indicated by the position of its geographical name on charts. If article 12 applies, however, the limits must be shown on charts or must be described by a list of geographical coordinates.

See: CHART; GEOGRAPHICAL COORDINATES.

ROCK

Consolidated lithology of limited extent.

There is no definition given in the Convention. It is used in Convention article 121, paragraph 3, which states:

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

See: ISLAND; LOW-TIDE ELEVATION.

SCALE

The ratio between a distance on a chart or map and a distance between the same two points measured on the surface of the earth (or other body of the universe).

Scale may be expressed as a fraction or as a ratio. If on a chart a true distance of 50,000 metres is represented by a length of 1 metre the scale may be expressed as 1:50 000 or as 1/50 000. The larger the divisor the smaller the scale of the chart.

See: CHART.

SEABED

The top of the surface layer of sand, rock, mud or other material lying at the bottom of the sea and immediately above the subsoil.

The seabed may be that of the territorial sea (art. 2, para. 2), archipelagic waters (art. 49, para. 2), the exclusive economic zone (art. 56), the continental shelf (art. 76), the high seas (art. 112, para. 1), or the Area (arts. 1, para. 1(1) and 133). It may be noted, however, that in reference to the surface layer seaward of the continental rise, article 76 uses the term "deep ocean floor" rather than seabed.

See: CONTINENTAL SHELF; DEEP OCEAN FLOOR; SUBSOIL.

SEDIMENTARY ROCK

Rock formed by the consolidation of sediment that has accumulated in layers. (The term sedimentary rock is used in art. 76, para. 4(a)(i)).

The sediments may consist of rock fragments or particles of various sizes (conglomerate, sandstone, shale), the remains or products of animals or plants (certain limestones and coal), the product of chemical action or of evaporation (salt, gypsum, etc.) or a mixture of these materials.

SHELF

Geologically an area adjacent to a continent or around an island and extending from the low-water line to the depth at which there is usually a marked increase of slope to greater depth.

See: CONTINENTAL SHELF.

SLOPE

See: CONTINENTAL SLOPE.

SPUR

A subordinate elevation, ridge or rise projecting outward from a larger feature.

The maximum extent of the outer limit of the continental shelf along submarine ridges is 350 nautical miles from the baselines. This limitation, however, "... does not apply to submarine elevations that are natural components of the continental margin, such as plateaux, rises, caps, banks and spurs." (art. 76, para. 6)

See: BANK; CAP; CONTINENTAL SHELF; SUBMARINE RIDGE.

STRAIGHT BASELINE

See: BASELINE.

STRAIGHT LINE

Mathematically the line of shortest distance between two points in a specified space or on a specified surface.

See: BASELINE; CONTINENTAL MARGIN; CONTINENTAL SHELF.

STRUCTURE

See: INSTALLATION (OFFSHORE).

SUBMARINE RIDGE

An elongated elevation of the sea floor, with either irregular or relatively smooth topography and steep sides.

On submarine ridges the outer limit of the continental shelf shall not exceed 350 nautical miles from the territorial sea baselines. This does not apply in the case of submarine elevations which are natural components of the continental margin of a coastal State (art. 76, para. 6).

See: CONTINENTAL SHELF.

SUBSOIL

All naturally occurring matter lying beneath the seabed or deep ocean floor.

The subsoil includes residual deposits and minerals as well as the bedrock below.

The Area and coastal State's territorial sea, archipelagic waters, exclusive economic zone and continental shelf all include the subsoil (arts. 1, para. 1(1); 2, para. 2; 49, para. 2; 56, para. 1(a); and 76, para. 1).

See: CONTINENTAL SHELF; SEABED.

THALWEG

The line of maximum depth along a river channel. It may also refer to the line of maximum depth along a river valley or in a lake.

TIDE

The periodic rise and fall of the surface of the oceans and other large bodies of water due principally to the gravitational attraction of the Moon and Sun on a rotating earth.

CHART DATUM: The tidal level to which depths on a nautical chart are referred constitutes a vertical datum called Chart Datum.

While there is no universally agreed Chart Datum level, however, under an International Hydrographic Conference resolution (A 2.5), it "shall be a plane so low that the tide will seldom fall below it".

See: CHART; LOW-WATER LINE.

WATER COLUMN

A vertical continuum of water from sea surface to seabed.

See: SEABED.

ANNEX VI. EXAMPLES OF CLAUSES IN MARITIME BOUNDARY DELIMITATION AGREEMENTS

1. Preamble

(a) Treaty between the Government of the United States of America and the Government of Niue on the delimitation of a maritime boundary, 13 May 1997

The Government of the United States of America and the Government of Niue, hereinafter the Parties;

Desiring to strengthen the bonds of friendship between the two Parties;

Recalling the tradition of cooperative relations and close ties between the people of the United States of America and the people of Niue;

Noting the Fishery Conservation and Management Act 1976 and the Presidential Proclamation No. 5030 of 10 March 1983 establishing an exclusive economic zone for the United States of America;

Noting Act No. 220 of 7 April 1997, establishing an exclusive economic zone for Niue;

Desirous of establishing the maritime boundary between the United States of America (American Samoa) and Niue, on the basis of equidistance;

Have agreed as follows:

(b) Treaty on the delimitation of the maritime frontier between the Republic of Cape Verde and the Republic of Senegal, 17 February 1993

[Original: French and Portuguese]

The Government of the Republic of Cape Verde, on the one hand, and

The Government of the Republic of Senegal, on the other hand,

Guided by the spirit of friendship and cooperation existing between their two peoples;

Desiring to develop and strengthen their neighbourly relations;

Desiring to establish, through negotiations, their common maritime frontier which separates the exclusive economic zone and the continental shelf of the two countries;

Taking into account the United Nations Convention on the Law of the Sea of 1982.

Have agreed as follows:

(c) Treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries, 14 March 1997

The Government of Australia and the Government of the Republic of Indonesia (hereafter referred to as "the Parties");

Taking into account the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 (hereafter referred to as "the 1982 Convention"), to which both Australia and the Republic of Indonesia are a party, and, in particular, articles 74 and 83 which provide that the delimitation of the exclusive economic zone and continental shelf between States with opposite coasts shall be effected by agreement on the basis of international law in order to achieve an equitable solution;

Affirming the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia establishing certain seabed boundaries, done at Canberra on 18 May 1971, and the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia establishing certain seabed boundaries in the area of the Timor and Arafura Seas, supplementary to the Agreement of 18 May 1971, done at Jakarta on 9 October 1972 respectively, establishing permanent seabed boundaries in the area of the Timor and Arafura Seas (hereafter collectively referred to as "the Agreements");

Affirming the Treaty between the two Parties on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia, done over the Zone of Cooperation on 11 December 1989 (hereafter to as "the Zone of Cooperation Treaty");

Believing that the establishment of comprehensive boundaries in the maritime areas between the two countries will encourage and promote the sustainable development of the marine resources of those areas and enhance the protection and preservation of the marine environment adjacent to the two countries;

Bearing in mind the Memorandum of Understanding between the Government of Australia and the Government of the Republic of Indonesia regarding the operations of Indonesian traditional fishermen in areas of the Australian exclusive fishing zone and continental Shelf, signed at Jakarta on 7 November 1974, and the Agreed Minutes of Meeting between officials of Indonesia and Australia on fisheries, signed at Jakarta on 29 April 1989;

Fully committed to maintaining, renewing and further strengthening the mutual respect, friendship and cooperation between the Parties through existing treaties, agreements and arrangements, as well as their policies of promoting consructive neighbourly cooperation;

Mindful of the interests which the Parties share as immediate neighbours, and in a spirit of cooperation, friendship and goodwill; and

Convinced that this Treaty will contribute to the strengthening of the relations between their two countries;

Therefore agree as follows: ...

2. Definitions

(a) Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as Torres Strait, and related matters, 18 December 1978

Article I
Definitions

1. In this Treaty -

(a) "adjacent coastal area" means, in relation to Australia, the coastal area of the Australian mainland, and the Australian islands, near the Protected Zone; and, in relation to Papua New Guinea, the coastal area of the Papua New Guinea mainland, and the Papua New Guinea islands, near the Protected Zone;

(b) "fisheries jurisdiction" means sovereign rights for the purpose of exploring and exploiting, conserving and managing fisheries resources other than sedentary species;

(c) "fisheries resources" means all living natural resources of the sea and seabed, including all swimming and sedentary species;

(d) "free movement" means movement by the traditional inhabitants for or in the course of traditional activities;

(e) "indigenous fauna and flora" includes migratory fauna;

(f) "mile" means an international nautical mile, being 1,852 metres in length;

(g) "Protected Zone" means the zone established under article 10;

(h) "Protected Zone commercial fisheries" means the fisheries resources of present or potential commercial significance within the Protected Zone and, where a stock of such resources belongs substantially to the Protected Zone but extends into an area outside but near it, the part of that stock found in that area within such limits as are agreed from time to time by the responsible authorities of the Parties;

(i) "seabed jurisdiction" means sovereign rights over the continental shelf in accordance with international law, and includes jurisdiction over low-tide elevations, and the right to exercise such jurisdiction in respect of those elevations, in accordance with international law;

(j) "sedentary species" means living organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil;

(k)"traditional activities" means activities performed by the traditional inhabitants in accordance with local tradition, and includes, when so performed -

(i) activities on land, including gardening, collection of food and hunting;

(ii) activities on water, including traditional fishing;

(iii) religious and secular ceremonies or gatherings for social purposes, for example, marriage celebrations and settlement of disputes; and

(iv) barter and market trade.

In the application of this definition, except in relation to activities of a commercial nature, "traditional" shall be interpreted liberally and in the light of prevailing custom;

(l) "traditional fishing" means the taking, by traditional inhabitants for their own or their dependants' consumption or for use in the course of other traditional activities, of the living natural resources of the sea, seabed, estuaries and coastal tidal areas, including dugong and turtle;

(m) "traditional inhabitants" means, in relation to Australia, persons who -

(i) are Torres Strait Islanders who live in the Protected Zone or the adjacent coastal area of Australia,

(ii) are citizens of Australia, and

(iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities; and

in relation to Papua New Guinea, persons who -

(i) live in the Protected Zone or the adjacent coastal area of Papua New Guinea,

(ii) are citizens of Papua New Guinea, and

(iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities.

2. Where for the purposes of this Treaty it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to the Australian Geodetic Datum, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378,160 metres and a flattening of 100/29825 and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia. That station

shall be taken to be situated at Latitude 25°56'54.5515" South and at Longitude 133°12'30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.

3. In this Treaty, the expression "in and in the vicinity of the Protected Zone" describes an area the outer limits of which might vary according to the context in which the expression is used.

3. Main clauses concerning the actual delimitation line

(a) Agreement between Albania and Italy for the determination of the continental shelf of each of the two countries, 18 December 1992

Article I

1. Applying the principle of equidistance that is expressed in the median line, which is mentioned in the introduction to this Agreement, the division line between the two zones of the continental shelf of each of the two countries is determined from the lines that follow the geodesic curves that link the points, the geographic coordinates of which, referring to the geodesic system European Datum 1950, are as follows:

Points	Latitude (north)	Longitude (east)

...

This division line is marked by an indicating title in the map attached to this agreement. The basic map used is the Albanian sea map "From Korfu to Dubrovnik - from Cape Santa Maria di Leuca up to the Troniti Islands" of the scale of 1:500 000, of the mercator projection, edition of year 1984.

2. The Contracting Parties agreed that, for the present, the determination of the border should not extend beyond the first and the last point determined in the previous paragraph.

The completion of the determination in the north beyond point 1 and in the south beyond point 17 remains to be accomplished by later agreements respectively with the respective interested parties.

(b) Treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries, 14 March 1997

Article 1
Western extension of the seabed boundary

1. In the area to the west of Point A25 specified in the Agreements, the boundary between the area of seabed that is adjacent to and appertains to Australia and the area of seabed that is adjacent to and appertains to the Republic of Indonesia is the line:

(a) commencing at Point A25;

(b) running thence south to the point of Latitude 11° 48' 06.1" South, Longitude 123° 14' 04.5" East ("Point A26");

(c) thence north-westerly along the arc of a circle drawn concave to Ashmore Islands with a radius of twenty- four nautical miles to the point of Latitude 11° 47' 59.3" South, Longitude 123° 13' 38.1" East ("Point A27");

(d) thence generally north-westerly, westerly, south-westerly, and southerly along a series of intersecting circular arcs drawn concave to Ashmore Islands with a radius of twenty-four nautical miles and having the following vertices:

Point Number	Latitude South	Longitude East

...

(e) thence southerly along the arc of a circle drawn concave to Ashmore Islands with a radius of twenty-four nautical miles to the point of Latitude 12° 14' 25.8" South, Longitude 122° 31' 06.6" East ("Point A49");

(f) thence south-westerly along the geodesic to the point of Latitude 13° 56' 31.7" South, Longitude 120° 00' 46.9" East ("Point A50");

(g) thence north along the meridian to the point of Latitude 12° 46' 27.9" South, Longitude 120° 00' 46.9" East ("Point A51");

(h) thence north-westerly along the geodesic to the point of Latitude 12° 45' 47" South, Longitude 119° 59' 31" East ("Point A52");

...

(al) thence southerly along the geodesic to the point of Latitude 13° 05' 27.0" South, Longitude 118° 10' 08.9" East ("Point A82), where it terminates.

2. An illustrative map depicting the line described in paragraph 1 of this article forms Annex 1 to this Treaty.

3. A reference to the "seabed" in this Treaty includes the subsoil beneath the seabed.

Article 2
Exclusive economic zone

1. In the area between continental Australia and the Indonesian archipelago, the boundary between the area of exclusive economic zone that is adjacent to and appertains to Australia and the area of exclusive economic zone that is adjacent to and appertains to the Republic of Indonesia is the line:

(a) commencing at the point of Latitude 10° 50' 00" South, Longitude 139° 12' 00" East (Point Z1");

(b) running thence north-westerly along the geodesic to the point of Latitude 10° 24' 00" South, Longitude 138° 38' 00" East ("Point Z2");

...

(as) thence northerly along the arc of a circle drawn to Ashmore Islands with a radius of twenty-four nautical miles to the point of Latitude 12° 14' 46.7" South, Longitude 123° 33' 55.8" East ("Point Z45");

(at) thence generally northerly, north-westerly, westerly, south-westerly, and southerly along a series of intersecting circular arcs drawn concave to Ashmore Islands with a radius of twenty-four nautical miles and having the following vertices:

...

2. An illustrative map depicting the line described in paragraph 1 of this article forms Annex 2 to this Treaty.

3. The geographical coordinates referred to in subparagraphs 1(a) to 1(j) of this article are expressed in terms of the Australian Geodetic Datum 1966 (AGD66) system.

(c) Agreement between the Republic of Estonia and the Republic of Latvia on the Maritime Delimitation in the Gulf of Riga, the Strait of Irbe and the Baltic Sea, 12 July 1996

Article 1

The maritime boundary between the Republic of Estonia and the Republic of Latvia in the Gulf of Riga, the Strait of Irbe and in the Baltic Sea referred to in this Agreement is the maritime boundary with respect to the territorial seas, the exclusive economic zones, the continental shelf and any other maritime zones which might be established by the Contracting Parties in accordance with the provisions of the 1982 United Nations Convention on the Law of the Sea and principles of international law.

Article 2

The maritime boundary between the Republic of Estonia and the Republic of Latvia in the Gulf of Riga and the Strait of Irbe consists of straight geodetic lines connecting the points with the following geographical coordinates:

1. 57° 52,471' N 24° 21,406' E

...

15. 57° 45,783' N 21° 50,567' E

All positions in the Agreement and the azimuth referred to in article 3 are defined in the World Geodetic System 1984 (WGW-84).

The location of the maritime boundary between the Republic of Estonia and the Republic of Latvia is illustrated on the map annexed to the present Agreement.

Article 3

The maritime boundary between the Republic of Estonia and the Republic of Latvia continuing into the Baltic Sea forms point 15 defined in article 2 as a straight geodetic line in the azimuth of 289°19.35' up to the boundary of the exclusive economic zone and the continental shelf of the Kingdom of Sweden. The azimuth is defined by adding 90 to the azimuth at the median point of the straight geodetic line between the point at the southern rock of Cape Loode with geographical coordinates 57°57.4760'N; 21°58.2789'E and the point at Ovisi Lighthouse with geographical coordinates 57°34.1234' N; 21°42.9574'E.

The precise coordinates of point # 16 where this maritime meets the boundary of the exclusive economic zone and the continental shelf of the Kingdom of Sweden shall be determined by a trilateral agreement between the Republic of Estonia, the Republic of Latvia and the Kingdom of Sweden.

4. Provisions devoted to particular problems

(a) Agreement between the Government of the French Republic and the Government of the Kingdom of Belgium on the delimitation of the territorial sea, 8 October 1990

Article 2

The points defined above have been determined by taking into account low-tide elevations at the approaches to the French and Belgian coasts. However, the application by France and Belgium of different methods for calculating the elevations has resulted in two different delineations. It has therefore been agreed that the area comprised within these two delineations shall be divided into two equal parts.

(b) Boundary Delimitation Treaty Between the Republic of Venezuela and the Kingdom of the Netherlands, 31 March 1978

Article 4

1. In the event that the Netherlands Antilles, in accordance with international law, should extend its territorial waters around the Leeward Islands (Aruba, Bonaire and Curaçao) beyond the current span of three nautical miles, measured from the low-tide line along the coast, or in the event it should establish legal jurisdiction over maritime areas outside the current territorial waters of the

Leeward Islands, the regulations applicable to said maritime areas situated beyond the aforementioned distance of three nautical miles shall respect the conditions established in this article regarding freedom of navigation and overflight to and from Venezuela.

2. ...

(c) Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as Torres Strait, and related matters, 18 December 1978

Article 2
Sovereignty over Islands

1. Papua New Guinea recognises the sovereignty of Australia over -

(a) the islands known as Anchor Cay, Aubusi Island, Black Rocks, Boigu Island, Bramble Cay, Dauan Island, Deliverance Island, East Cay, Kaumag Island, Kerr Islet, Moimi Island, Pearce Cay, Saibai Island, Turnagain Island and Turu Cay; and

(b) all islands that lie between the mainlands of the two countries and south of the line referred to in paragraph 1 of article 4 of this Treaty.

2. No island over which Australia has sovereignty, other than those specified in sub-paragraph 1(a) of this article, lies north of the line referred to in paragraph 1 of article 4 of this Treaty.

3. Australia recognises the sovereignty of Papua New Guinea over -

(a) the islands known as Kawa Island, Mata Kawa Island and Kussa Island; and

(b) all the other islands that lie between the mainlands of the two countries and north of the line referred to in paragraph 1 of article 4 of this Treaty, other than the islands specified in subparagraph 1(a) of this article.

4. In this Treaty, sovereignty over an island shall include sovereignty over -

(a) its territorial sea;

(b) the airspace above the island and its territorial sea;

(c) the seabed beneath its territorial sea and the subsoil thereof; and

(d) any island, rock or low-tide elevation that may lie within its territorial sea.

(d) Agreement between the Socialist Republic of the Union of Burma [now Myanmar] and the Republic of India on the Delimitation of the Maritime Boundary in the Andaman Sea, in the Coco Channel and in the Bay of Bengal, 23 December 1986

Article V

Each Party has sovereignty over the existing islands and any islands that may emerge, falling on its side of the maritime boundary.

5. Dispute settlement provisions concerning the interpretation and application of maritime boundary delimitation agreements

(a) Agreement between the Republic of Estonia and the Republic of Latvia on the Maritime Delimitation in the Gulf of Riga, the Strait of Irbe and the Baltic Sea, 12 July 1996

Article 5

Any dispute between the Parties arising out of the interpretation or implementation of the present agreement shall in the first instance be settled by consultations or negotiations, or using other means of peaceful settlement of disputes provided for by international law.

(b) Treaty Between the Kingdom of Denmark and the Federal Republic of Germany concerning the Delimitation of the Continental Shelf under the North Sea, 28 January 1971

Article 5

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Treaty or of any regulations agreed upon pursuant to article 2, paragraph (2), shall as far as possible be settled by negotiation.

(2) Any dispute not settled in this manner within a reasonable time shall, at the request of either Contracting Party, be referred to an arbitral tribunal for decision.

(3) The arbitral tribunal shall be constituted on an ad hoc basis. Save where the Contracting Parties, by way of a simplified procedure, agree to appoint a single arbitrator to settle the dispute, an arbitral tribunal of three members shall be constituted in the following manner: each Contracting Party shall appoint one member, and the two members shall agree on a national of a third State, who shall be appointed chairman by the two Contracting Parties. The members must be appointed within two months, and the chairman within a further two months, after a request by either Contracting Party for settlement of the dispute by an arbitral tribunal.

(4) If the time limits specified in paragraph (3) are not met, either Contracting Party may request the President of the International Court of Justice to make the necessary appointments. If the

President is a national of one of the Contracting Parties or is incapacitated for any other reason, the appointments shall be made by the Vice-President. If the Vice-President also is a national of one of the Contracting Parties or is incapacitated, the appointments shall be made by the next most senior member of the Court who is not a national of one of the Contracting Parties and is not incapacitated.

(5) The arbitral tribunal shall take its decisions by majority vote. Each Contracting Party shall bear the costs of its member and of its representation in the case before the tribunal; the costs of the chairman and any other costs shall be borne by the Contracting Parties equally.

(6) The arbitral tribunal or the single arbitrator shall reach a decision on the basis of the international law applicable between the Contracting Parties. The decision shall be binding.

(7) The arbitral tribunal or the single arbitrator shall determine its or his own procedure, save as otherwise provided in this Treaty or by the Contracting Parties when the arbitral tribunal or the single arbitrator is appointed.

(c) Convention between Spain and Italy on the Delimitation of the Continental Shelf between the two States, 19 February 1974

Article 3

1. The Contracting Parties shall endeavour to settle as soon as possible, through the diplomatic channel, any dispute which may arise concerning the interpretation and application of this Convention.

2. Any dispute not settled within four months from the date on which one of the Contracting Parties gave notice of its intention to initiate the procedure provided for in the preceding paragraph shall, at the request of either Contracting Party, be referred to the International Court of Justice.

6. Prevention and settlement of other disputes

(a) Agreement between Albania and Italy for the determination of the continental shelf of each of the two countries, 18 December 1992

Article V

1. ...

2. In case of disputes which are related to the location of installations or equipment in relation to the division line determined according to article 1 of this Agreement, the respective competent authorities of both Contracting Parties shall verify in good understanding in which zone of the continental shelf such installations or equipment are installed.

3. ...

(b) Agreement between the Government of the Kingdom of the Netherlands and the Government of the Kingdom of Denmark concerning the delimitation of the continental shelf under the North Sea between the two countries, 31 March 1966

Article 2

1. At the request of one Contracting Party, the other Contracting Party shall as soon as possible make known its opinion regarding the position, in relation to the boundary line, of an existing or projected installation or other structure or a drilling site.

2. In the event of a dispute concerning the position, in relation to the boundary line, of an installation or other structure or a drilling site, the Contracting Parties shall determine by agreement between them on which side of the boundary line the installation, structure or drilling site is situated.

(c) Agreement between the Government of the Republic of Tunisia and the Government of the Italian Republic concerning the delimitation of the continental shelf between the two countries, 20 August 1971

Article V

In case of a dispute over the position of an installation with respect to the boundary line as defined in this Agreement, the competent authorities of the Contracting Parties shall determine by common agreement in which Party's continental shelf these installations are located.

(d) Agreement between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany relating to the delimitation of the continental shelf under the North Sea between the two countries, 25 November 1971

Article 2

Should any dispute arise concerning the position of any installation or other device or a well's intake in relation to the dividing line, the Contracting Parties shall in consultation determine on which side of the dividing line the installation or other device or the well's intake is situated.

7. Resource-deposit clauses, resource-unity (unitization) clauses and other cooperative arrangements clauses

(a) Agreement between Albania and Italy for the determination of the continental shelf of each of the two countries, 18 December 1992

Article 2

"1. Where a deposit of mineral resources, including sand and gravel, is divided by the division line of the zones of the continental shelf, and the part of the deposit which is located on one of the sides of the division line is fully or partially exploitable by

installations which are located on the other side of the line, the Contracting Parties will try, by preliminary consultations with the concessionaires, if there are any, that have the right of mineral exploitation, to agree on the conditions for and the method of processing the deposit, in order that this processing be as beneficial as possible, keeping in mind the protection of the deposit and in such a way that each of the parties maintains the integrity of its own rights on the mineral resources of the surface and subsurface of its continental shelf.

"2. In particular, such an arrangement will be applied if the conditions and the processing method of the part of the deposit located on one side of the division line of the border have an influence on the conditions or processing method on the other part of the deposit."

(b) Treaty between the Kingdom of Denmark and the Federal Republic of Germany concerning the delimitation of the continental shelf under the North Sea, 28 January 1971

Article 2

"(1) If the existence of a mineral deposit in or on the continental shelf of one of the Contracting Parties is established and the other Contracting Party is of the opinion that the said mineral deposit extends into its continental shelf, the latter Contracting Party may notify the former Contracting Party accordingly, at the same time submitting the data on which it bases its opinion. If the former Contracting Party does not share the opinion of the other Contracting Party, the arbitral tribunal shall in accordance with article 5, at the request of either Contracting Party, make a ruling on the question.

"(2) If the Contracting Parties agree on the question or if the arbitral tribunal rules that the mineral deposit extends into or onto the continental shelf of both Contracting Parties, the Government of the Contracting Parties shall, for the purpose of exploitation, agree upon regulations which, with due regard for the interests of both Contracting Parties, take into account the principle that each Contracting Party has title to the mineral resources situated in or on its continental shelf. If any mineral resources have previously been extracted from the deposit extending across the boundary, the regulations shall also include provisions for reasonable compensation.

"(3) Regulations pursuant to paragraph (2) may also, with the consent of the Governments of the Contracting Parties, be agreed upon wholly or partly between the entitled parties. An entitled party is any person who has a right to extract the mineral resources in question.

"(4) If regulations pursuant to paragraph (2) or paragraph (3) above have not been drawn up within a reasonable time, either Contracting Party may bring the matter before the arbitral tribunal in accordance with article 5. In such cases, the arbitral tribunal may also make a ruling ex aequo et bono. The arbitral tribunal shall be empowered to issue interim orders, after hearing the Contracting Parties."

(c) Agreement between the Government of the Kingdom of Denmark along with the local Government of Greenland on the one hand, and the Government of the Republic of Iceland on the other hand on the delimitation of the continental shelf and the fishery zone in the area between Greenland and Iceland, 11 November 1997

Article 2

"If natural resources are found in or on the continental shelf of one of the Parties and the other Party is of the opinion that the resources extend onto its continental shelf, the latter Party may, by presenting the evidence upon which the opinion is based, e.g., geological or geophysical data, submit this to the first-mentioned Party.

"If such an opinion is submitted, the Parties shall initiate discussions on the extent of the resources and the possibility for exploitation, with a presentation of each of the Parties' information hereon. If it is established during these discussions that the resources extend across both Parties' parts of the continental shelf and also that the resources in the area of one Party can be exploited wholly or in part from the area of the other Party or that the exploitation of the resources in the area of one Party would affect the possibility of exploitation of the resources in the area of the other Party, an agreement concerning the exploitation of the resources shall be made at the request of one of the Parties."

(d) Agreement between the Kingdom of Denmark and the Kingdom of Norway concerning the delimitation of the continental shelf in the area between Jan Mayen and Greenland and concerning the boundary between the fishery zones in the area, 18 December 1995

Article 2

"If natural resources are discovered in or on the continental shelf of one of the Parties and the other Party is of the opinion that the said resources extend onto its continental shelf, the latter Party may by presenting the evidence on which the opinion is based, e.g. geological or geophysical data, submit this opinion to the first-mentioned Party.

"If such an opinion is put forward, the Parties shall institute deliberations, at which the information available to both of the Parties is submitted, on the extent of the resources and the possibility of exploitation. If it is established in the course of these deliberations that the resources extend across both Parties' parts of the continental shelf and that the resources in one of the Parties' areas are exploitable, wholly or in part, from that of the other Party or that the exploitation of the resources in one of the Parties' areas would affect the possibility of exploiting the resources in that of the other Party, an agreement shall be made, at the request of either of the Parties, concerning exploitation of the said resources."

(e) Convention between the Government of the French Republic and the Government of the Spanish State on the delimitation of the continental shelves of the two states in the Bay of Biscay (Golfe de Gascogne/Golfo de Vizcaya), 29 January 1974

Article 4

"1. If a deposit of natural resources is split by the boundary between the continental shelves and if that part of the deposit which is situated on one side of the boundary is exploitable, wholly or in part, by means of installations situated on the other side of the boundary, the Contracting Parties shall endeavour, together with the holders of exploitation licences, if any, to reach agreement as to the conditions for exploitation of the deposit, in order to ensure that such exploitation is as profitable as possible and in order that each Party may preserve its full rights over the natural resources of its continental shelf. In particular, this procedure shall apply if the mode of exploitation of that part of the deposit which is situated on one side of the boundary affects the conditions for exploitation of the other part of the deposit.

"2. If the natural resources of a deposit situated on either side of the boundary between the continental shelves have already been exploited, the Contracting Parties shall endeavour, together with the holders of exploitation licences, if any, to reach agreement on appropriate compensation."

(f) Agreement between Sri Lanka and India on the maritime boundary between the two countries in the Gulf of Mannar and the Bay of Bengal and related matters, 23 March 1976

Article VI

"If any single geological petroleum or natural gas structure or field, or any single geological structure or field of any mineral deposit, including sand or gravel, extends across the boundary referred to in Articles I and II and the part of such structure or field which is situated on one side of the boundary is exploited, in whole or in part, from the other side of the boundary, the two countries shall seek to reach agreement as to the manner in which the structure or field shall be most effectively exploited and the manner in which the proceeds deriving therefrom shall be apportioned."

8. Clauses concerning fisheries rights

(a) Exchange of notes between the United Republic of Tanzania and Kenya concerning the delimitation of the territorial waters boundary between the two States, 17 December 1975 - 9 July 1976

3. FISHING AND FISHERIES:

(a) It was agreed that indigenous fishermen from both countries engaged in fishing for subsistence, be permitted to fish within 12 nautical miles of either side of the territorial sea boundary in accordance with existing regulations.

(b) It was agreed that there be reciprocal recognition of fisheries licences, regulations and practices of either State applicable to indigenous fishermen aforesaid. The fishing within the area specified in paragraph 3 (a) [Sic.].

(b) Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as Torres Strait, and related matters, 18 December 1978

Article 23
Sharing of the Catch of the Protected Zone Commercial Fisheries

1. The Parties shall share the allowable catch of the Protected Zone commercial fisheries in accordance with the provisions of this article and of articles 24 and 25 of this Treaty.

2. The allowable catch, that is to say the optimum sustainable yield, of a Protected Zone commercial fishery shall be determined jointly by the Parties as part of the subsidiary conservation and management arrangements referred to in paragraph 1 of article 22 of this Treaty.

3. If either Party has reasonable grounds for believing that the commercial exploitation of a species of Protected Zone commercial fisheries would, or has the potential to, cause serious damage to the marine environment, or might endanger another species, that Party may request consultations with the other Party and the Parties shall then consult as soon as possible with a view to reaching agreement on whether such commercial exploitation could be undertaken in a manner which would not result in such damage or endanger another species.

4. In respect of any relevant period where the full allowable catch of a particular Protected Zone commercial fishery might be taken, each Party shall be entitled to a share of the allowable catch apportioned, subject to paragraphs 5, 6 and 8 of this article and to articles 24 and 25 of this Treaty, as follows:

(a) in areas under Australian jurisdiction, except as provided in (b) below:

Australia - 75%

Papua New Guinea - 25%

(b) within the territorial seas of Anchor Cay, Black Rocks, Bramble Cay, Deliverance Island, East Cay, Kerr Islet, Pearce Cay and Turu Cay:

Australia - 50%

Papua New Guinea - 50%

(c) in areas under Papua New Guinea jurisdiction:

Australia - 25%

Papua New Guinea - 75%

5. Papua New Guinea shall have the sole entitlement to the allowable catch of the commercial barramundi fishery near the Papua New Guinea coast, except within the territorial seas of the islands of Aubusi, Boigu, Dauan, Kaumag, Moimi and Saibai where, in respect of that fishery, the provisions of paragraph 4 (a) of this article shall not apply.

6. In apportioning the allowable catch in relation to an individual fishery, the Parties shall normally consider the allowable catch expressed in terms of weight or volume. In calculating the apportionment of the total allowable catch of the Protected Zone commercial fisheries, the Parties shall have regard to the relative value of individual fisheries and shall, for this purpose, agree on a common value for production from each individual fishery for the period in question, such value being based on the value of the raw product at the processing facility or such other point as may be agreed, but prior to any enhancement of value through processing, including processing at a pearl culture farm, or further transportation or marketing.

7. The Parties may agree to vary the apportionment of the allowable catch determined for individual fisheries as part of the subsidiary conservation and management arrangements referred to in paragraph 1 of article 22 of this Treaty but so as to maintain in respect of the total allowable catch of the Protected Zone commercial fisheries the apportionment specified in paragraph 4 of this article for each Party.

8. In calculating the total allowable catch of the Protected Zone commercial fisheries, the allowable catch of the commercial barramundi fishery referred to in paragraph 5 of this article shall be disregarded.

Article 24
Transitional Entitlement

1. As part of the subsidiary conservation and management arrangements referred to in paragraph 1 of article 22 of this Treaty, the level of the catch of each Protected Zone commercial fishery to which each Party is entitled, provided it remains within the allowable catch -

(a) shall not, during the period of five years immediately after the entry into force of this Treaty, be reduced below the level of catch of that Party before the entry into force of this Treaty; but

(b) may, during the second period of five years after the entry into force of this Treaty, be adjusted progressively so that at the end of that second five-year period it reaches the level of catch apportioned in each case in article 23 of this Treaty.

2. The entitlement of a Party under this article shall, where the limitation of the allowable catch makes it necessary, take priority over the entitlement of the other Party under article 23 of this Treaty, but shall be taken into account in calculating the entitlement of the first Party.

Article 25
Preferential Entitlement

If, in any relevant period, a Party does not itself propose to take all the allowable catch of a Protected Zone commercial fishery to which it is entitled, either in its own area of jurisdiction or that of the other Party, the other Party shall have a preferential entitlement to any of the allowable catch of that fishery not taken by the first Party.

Article 26
Licensing Arrangements

1. In the negotiation and implementation of the conservation and management arrangements referred to in paragraph 1 of article 22 of this Treaty -

(a) the Parties shall consult and cooperate in the issue and endorsement of licences to permit commercial fishing in Protected Zone commercial fisheries;

(b) the responsible authorities of the Parties may issue licences to fish in any Protected Zone commercial fishery; and

(c) persons or vessels which are licensed by the responsible authorities of one Party to fish in any relevant period in a Protected Zone commercial fishery shall, if nominated by the responsible authorities of that Party, be authorised by the responsible authorities of the other Party, wherever necessary, by the endorsement of licences or otherwise, to fish in those areas under the jurisdiction of the other Party in which the fishery concerned is located.

2. The persons or vessels licensed by one Party which have been authorized, or are to be authorized, under the provisions of paragraph 1 of this article to fish in waters under the jurisdiction of the other Party shall comply with the relevant fisheries laws and regulations of the other Party except that they shall be exempt from licensing fees, levies and other charges imposed by the other Party in respect of such fishing activities.

3. In issuing licences in accordance with paragraph 1 of this article, the responsible authorities of both Parties shall have regard to the desirability of promoting economic development in the Torres Strait area and employment opportunities for the traditional inhabitants.

4. The responsible authorities of both Parties shall ensure that the traditional inhabitants are consulted from time to time on the licensing arrangements in respect of Protected Zone commercial fisheries.

Article 27
Third State Fishing in Protected Zone Commercial Fisheries

1. The responsible authorities of the Parties shall inform one another and shall consult, at the request of either of them, concerning the proposed exploitation of the Protected Zone commercial fisheries -

(a) by a joint venture in which there is third-State equity participation; or

(b) by a vessel of third-State registration or with a crew substantially of the nationality of a third State.

2. Vessels the operations of which are under the control of nationals of a third State shall not be licensed to exploit the Protected Zone commercial fisheries without the concurrence of the responsible authorities of both Parties in a particular case or class of cases.

Article 28
Inspection and Enforcement

1. The Parties shall cooperate, including by exchange of personnel, in inspection and enforcement to prevent violations of the Protected Zone commercial fisheries arrangements and in taking appropriate enforcement measures in the event of such violations.

2. The Parties shall consult from time to time, as necessary, so as to ensure that legislation and regulations adopted by each Party pursuant to paragraph 1 of this article are, as far as practicable, consistent with the legislation and regulations of the other Party.

3. Each Party shall make it an offence under its fisheries laws or regulations for a person to use a vessel of its nationality to fish in Protected Zone commercial fisheries for species of fisheries resources in areas over which the other Party has jurisdiction in respect of those species -

(a) without being duly licensed or authorized by that other Party; or

(b) in the case of a licensed or authorised vessel, in breach of the fisheries laws or regulations of the other Party applying within those areas.

4. Each Party will, in relation to species of fisheries resources in areas where it has jurisdiction in respect of those species -

(a) investigate suspected offences against its fisheries laws and regulations; and

(b) except as provided in or under this article, take corrective action when necessary against offenders against those laws or regulations.

5. In this article, "corrective action" means the action normally taken in respect of a suspected offence, after due investigation, and includes, where appropriate, the apprehension of a suspected offender, the prosecution of an alleged offender, or the execution of a penalty imposed by a court or the cancellation or suspension of the licence of an offender.

6. In accordance with the provisions of this article, and in other appropriate cases as may be agreed between the Parties, corrective action in respect of offences or suspected offences against the fisheries laws or regulations of the Parties shall be taken by the authorities of the Party whose nationality is borne by the vessel or person concerned (called in this article "the first Party") and not

by the Party in whose area of jurisdiction the offence or suspected offence occurs (called in this article "the second Party)".

7. The Parties acknowledge that the principle stated in paragraph 6 of this article should not be applied so as to frustrate the enforcement of fisheries laws or regulations or to enable offenders against those laws or regulations to go unpunished.

8. Where, in the case of a suspected offence alleged to have been committed in or in the vicinity of the Protected Zone, it appears that the offence was, or might reasonably be considered to have been, committed in the course of traditional fishing, corrective action or other measures shall be taken by the authorities of the first Party and not by the authorities of the second Party and, if being detained by the authorities of the second Party, the alleged offenders and their vessel shall be either released or handed over to the authorities of the first Party, in accordance with arrangements that will avoid undue expense or inconvenience to the authorities of the second Party.

9. Where paragraph 8 of this article applies, the authorities of the second Party may require assurance in a particular case that corrective action or other measures will be taken by the authorities of the first Party that will adequately ensure that the activity complained of will not be repeated.

10. Where the provisions of paragraph 8 of this article do not apply, and the person or vessel alleged to have been involved or used in the commission of a suspected offence in the Protected Zone is licensed to fish in the Protected Zone by the authorities of the first Party, corrective action shall be taken by the authorities of the first Party and not by the authorities of the second Party and, if being detained by the authorities of the second Party, the alleged offenders and their vessel shall be either released or handed over to the authorities of the first Party, in accordance with arrangements that will avoid undue expense or inconvenience to the authorities of the second Party, and the provisions of paragraphs 13 and 14 of this article shall apply.

11. The provisions of paragraph 10 of this article shall also apply in respect of a suspected offence by a person or vessel of the first Party in an area of jurisdiction of the second Party outside the Protected Zone where -

(a) that person or vessel was authorized by the authorities of the second Party to fish in the area where the suspected offence was committed under the arrangements referred to in paragraph 1 of article 22 of this Treaty; and

(b) the suspected offence was committed in relation to the fishery the subject of that authorization and did not involve the taking of other species or potential injury to another fishery.

12. Persons or vessels of the first Party detained by the authorities of the second Party in the circumstances described in paragraphs 8 and 10 of this article may be detained for as long as necessary to enable those authorities to conduct an expeditious investigation into the offence and to obtain evidence. Thereafter, they shall not be detained other than for the purpose of the handing over of the persons or vessels in accordance with the provisions of those paragraphs unless they are lawfully detained on some other ground.

13. If an alleged offender referred to in paragraph 10 of this article is, in respect of conduct in waters under the jurisdiction of the second Party -

(a) convicted of an offence against the fisheries laws or regulations of the first Party; or

(b) found by the authorities of the first Party, on the basis of sufficient available evidence, to have contravened or failed to comply with a condition of his licence or authorization or that of his vessel;

the authorities of the first Party shall, where appropriate and having regard to paragraph 7 of this article, cancel or suspend the licence or authorization of the person or his vessel so far as it relates to the Protected Zone commercial fisheries.

14. Where a person or vessel involved or used in the commission of the alleged offence referred to in paragraph 10 of this article is also currently licensed or authorized to fish in the area of the Protected Zone by the second Party, the authorities of the second Party may, after receiving a report and representations, if any, from the authorities of the first Party, cancel or suspend that licence or authorization in accordance with its laws for such period as is warranted by the circumstances of the case.

15. Each Party shall provide the other Party with any evidence obtained during investigations carried out in accordance with this article into a suspected offence involving a person or vessel of the other Party. Each Party shall take appropriate measures to facilitate the admission of such evidence in proceedings taken in respect of the suspected offence.

16. In this article references to persons and vessels of, or of the nationality of, a Party include references to persons or vessels licensed by that Party under sub-paragraph 1(b) of article 26 of this Treaty, and the crews of vessels so licensed, except where such persons or vessels have a prior current licence from the other Party under that sub-paragraph.

(c) Agreement between the Government of the French Republic and the Government of the Italian Republic on the delimitation of the maritime boundaries in the area of the Strait of Bonifacio, 28 November 1986

Article 2

1. For the purpose of ensuring that this Agreement shall not interfere with the established fishing practices of the professional fishermen of the two countries, the Parties hereby agree, by way of neighbourly arrangement, to allow French and Italian coastal fishing vessels to continue their activities in the traditional fishing areas located within a zone defined as follows:

In the north, by the 41° 20' 40" parallel;

In the west, by the 9° meridian;

In the east, by the 9° 6' meridian;

In the south, by the 4° 16' 20" parallel.

2. The zone defined in paragraph 1 is indicated on the map referred to in article 1 above.

9. Provisions concerning signature, ratification, entry into force of the Agreement, its termination, expiration authentic texts, etc.

(a) Treaty between the Kingdom of Denmark and the Federal Republic of Germany concerning the delimitation of the continental shelf under the North Sea, 28 January 1971

Article 8

(1)This Treaty shall be ratified. The instruments of ratification shall be exchanged at Bonn.

(2)The Treaty shall enter into force one month after the exchange of the instruments of ratification.

DONE at Copenhagen on 28 January 1971, in duplicate in the Danish and German languages, both texts being equally authentic.

(b) Agreement between the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the delimitation of the continental shelf in the area East of 30 minutes West of the Greenwich Meridian, 24 June 1982

Article 3

1. This Agreement shall be ratified. The instruments of ratification shall be exchanged at Paris as soon as possible.

2. This Agreement shall enter into force on the date of exchange of instruments of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE in duplicate at London this 24th day of June 1982 in the French and English languages, both texts being equally authoritative.

(c) Agreement between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland relating to the exploitation of single geological structures extending across the dividing line on the continental shelf under the North Sea, 6 October 1965

Article 4

(1)This Agreement shall be ratified. Instruments of ratification shall be exchanged at The Hague as soon as possible.

(2)This Agreement shall enter into force on the date of the exchange of instruments of ratification.

(3)Either Contracting Party may terminate this Agreement by giving to the other at least twelve months' notice in writing.

(4)If at the time of the termination of this Agreement a reference to an Arbitrator has been made in accordance with article 2 of this Agreement, the arbitration shall be completed in accordance with the provisions of this Agreement or of any other Agreement which the Contracting Parties may have agreed to substitute therefor.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE in duplicate at London the 6th October, 1965 in the English and Netherlands languages, both texts being equally authoritative.

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ANNEX VIII. REFERENCE MATERIAL OF THE UNITED NATIONS DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA

The Law of the Sea: Maritime Boundary Agreements (1970-1984) (United Nations publication, Sales No. E.87.V.12)

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The Law of the Sea: Baselines: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea (United Nations publication, Sales No. E.88.V.5)

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The Law of the Sea: National Legislation on the Continental shelf (United Nations publication, Sales No. E.89.V.5)

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The Law of the Sea: Maritime Boundary Agreements (1985-1991) (United Nations publication, Sales No. E.92.V.2)

The Law of the Sea: Definition of the Continental shelf: An Examination of the Relevant Provisions of the United Nations Convention on the Law of the Sea (United Nations publication, Sales No. E.93.V.16)

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The Law of the Sea: Practice of States at the Time of Entry into Force of the United Nations Convention on the Law of the Sea (United Nations publication, Sales No. E.94.V.13)

The Law of the Sea: National Legislation on the Territorial Sea, the Right of Innocent Passage and the Contiguous zone (United Nations publication, Sales No. E.95.V.7)

ANNEX IX. MEMBERS OF THE GROUP OF EXPERTS ON MARITIME BOUNDARY DELIMITATION, WHICH MET AT UNITED NATIONS HEADQUARTERS FROM 7 TO 9 APRIL 1999

Mr. Yutaka **ARIMA** (Japan)

Mr. Takashi **ARIYOSHI** (Japan)

Mr. Chris **CARLETON** (United Kingdom of Great Britain and Northern Ireland)

Ms. Guadalupe Lopez **CHAVEZ** (Mexico)

Dr. Tertius **DE WET** (South Africa)

Mr. Scott B. **EDMONDS** (United States of America)

Mr. Rolf Einar **FIFE** (Norway)

Professor Gianpiero **FRANCALANCI** (Italy)

Dr. Zhiguo **GAO** (China)

David H. **GRAY** (Canada)

Admiral Neil **GUY** (International Hydrographic Organization)

Professor Deborah Blake **HAMMAN** (South Africa)

Mr. Keith **HIGHET**[†] (United States of America)

H.E. Mr. José Luís **JESUS** (Cape Verde)

Maître Richard **MEESE** (France)

Professor Djamchid **MOMTAZ** (Islamic Republic of Iran)

Ambassador Jean François **PULVENIS** (Venezuela)

Judge Raymond **RANJEVA** (International Court of Justice)

Professor Habib **SLIM** (Tunisia)

Dr. Robert **SMITH** (United States of America)