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THE LAW OF THE SEA:

SOME RECENT DEVELOPMENTS

(With Particular Reference to the United Nations

Conference of 1958)

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The thoughts and opinions expressed are those of the authors and not necessarily of the U.S.

Government, the U.S. Department of the Navy or the Naval War College.

APPENDIX E

OPTIONAL PROTOCOL OF SIGNATURE CONCERNING THE COMPULSORY SETTLEMENT OF DISPUTES ⁷

The States Parties to this Protocol and to any one or more of the Conventions on the Law of the Sea adopted by the United Nations Conference on the Law of the Sea held at Geneva from 24 February 1958 to 27 April 1958,

Expressing their wish to resort, in all matters concerning them in respect of any dispute arising out of the interpretation or application of any article of any Convention on the Law of the Sea of 29 April 1958, to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement is provided in the Convention or has been agreed upon by the Parties within a reasonable period,

Have agreed as follows:

ARTICLE I

Disputes arising out of the interpretation or application of any Convention on the Law of the Sea shall lie within the compulsory jurisdiction of the International Court of Justice, and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to this Protocol.

ARTICLE II

This undertaking relates to all the provisions of any Convention on the Law of the Sea except, in the Convention on Fishing and Conservation of Living Resources of the High Seas, articles 4, 5, 6, 7 and 8, to which articles 9, 10, 11 and 12 of that Convention remain applicable.

ARTICLE III

The Parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the Court but to an arbitral tribunal. After the expiry

⁷ Adopted Apr. 26 (U.N. doc. A/CONF. 13/L. 57).

of the said period, either Party to this Protocol may bring the dispute before the Court by an application.

ARTICLE IV

1. Within the same period of two months, the Parties to this Protocol may agree to adopt a conciliation procedure before resorting to the Court.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

ARTICLE V

This Protocol shall remain open for signature by all States who become Parties to any Convention on the Law of the Sea adopted by the United Nations Conference on the Law of the Sea and is subject to ratification, where necessary, according to the constitutional requirements of the signatory States.

ARTICLE VI

The Secretary-General of the United Nations shall inform all States who become Parties to any Convention on the Law of the Sea of signatures to this Protocol and of the deposit of instruments of ratification in accordance with article V.

ARTICLE VII

The original of this Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article V.

In witness whereof the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

Done at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.