Situation, Documents, and Commentary on Recent Developments in the International Law of the Sea

Brunson MacChesney

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.
SECTION VI

NATIONAL LEGISLATION, UNILATERAL CLAIMS CONCERNING THE HIGH SEAS, THE TERRITORIAL SEA, THE CONTINENTAL SHELF, AND FISHERIES. REPRESENTATIVE PROTESTS BY OTHER STATES
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NATIONAL LEGISLATION, UNILATERAL CLAIMS CONCERNING THE HIGH SEAS, THE TERRITORIAL SEA, THE CONTINENTAL SHELF, AND FISHERIES. REPRESENTATIVE PROTESTS BY OTHER STATES

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A. THE UNITED STATES
A. The United States

1. The Continental Shelf

a. Introductory Note. Presidential Proclamation No. 2667 of 28 September 1945, concerning the Continental Shelf was the first unilateral claim to attract widespread attention and imitation, spurious or otherwise. Although the text is printed in N.W.C., I.L. Documents, 1948–49, page 183, it is reprinted below for convenience of reference. It has also been published in U.N. Leg. Series I (1951), page 38; I.C.J., Pleadings, 1951, U.K.-Norway, III, page 747; and 40 A.J.I.L., Supp., 1946, page 45. Executive Order No. 9633 of 28 September 1945, placing control of the Continental Shelf in the Secretary of the Interior, is printed in Ibid., page 41; Ibid., III, page 748; and Ibid., page 47, as well as in N.W.C., I.L. Documents 1948–49, page 184. Relevant extracts from the accompanying Press Release are printed in U.N. Leg. Series I (1951), page 39. For comment on the Shelf Proclamation, see Bibliographical Note, supra.


In Alabama v. Texas, et al., and Rhode Island v. Louisiana, et al., 347 U.S. 272 (1954), Alabama and Rhode Island moved to file a complaint against the States receiving off-shore resources under the Submerged Lands Act, and challenged the constitutionality of that Act. The motion was dismissed Per Curiam, the Chief Justice not participating, Justice Reed concurring, and Justices Black and Douglas dissenting.


Section 2(b) of the Submerged Lands Act provides that the seaward “boundaries” of a State of the United States shall not extend more than three miles into the Pacific or Atlantic Oceans or more than three leagues into the Gulf of Mexico. Litigation between the United States and Louisiana, concerning a dispute over conflicting claims as to the proper “boundary” is pending in the Supreme Court of the United States. By an Order of 11 June 1956, the Supreme Court enjoined any other suits by parties acting in Louisiana’s interest, and enjoined the United States and Louisiana from making new leases or starting new drilling in the disputed areas, unless the parties reach agreement, pending the final determination of the controversy by the Supreme Court. Such an agreement was signed by Louisiana and the United States on October 12, 1956, and permits the resumption of activity, with impounding of the proceeds from disputed areas. The New York Times, 13 October 1956, p. 25, col. 3. The Chief Justice did not participate in the Order.
76 Supreme Court Reporter 1043 (1956), and earlier Order at page 842 thereof. On 24 June 1957, the Supreme Court, Per Curiam, authorized intervention in the litigation by the States of Alabama, Florida, Mississippi, and Texas. Pending motions of the United States and Louisiana were continued. 77 Supreme Court Reporter 1873 (1957). The Chief Justice and Mr. Justice Clark did not participate.


A Note of 29 February 1956 from the Secretary of State of the United States to the United Nations states, in part: "** So far as concerns the references to the laws of California, Louisiana, and Texas, these provisions cannot be regarded as being determinative at present of the regime of the territorial sea of the United States. The Submerged Lands Act of 1953 limits to three miles the distance to which the boundaries of coastal States of the Union may extend into the Atlantic Ocean or the Pacific Ocean. While the Act does not preclude States of the Union bordering on the Gulf of Mexico from establishing claims to more than three miles into the Gulf of Mexico, there has been no adjudication to date of any such claims. **"

* * * * * * * * * *

b. PRESIDENTIAL PROCLAMATION, 28 SEPTEMBER 1945

(Proclamation No. 2667, 10 F.R. 12303)

WHEREAS the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and

WHEREAS its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilization is already practicable or will become so at an early date; and

WHEREAS recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilization when and as development is undertaken; and
WHEREAS it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the effectiveness of measures to utilize or conserve these resources would be contingent upon co-operation and protection from the shore, since the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of the nature necessary for utilization of these resources;

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-eighth day of September, in the year of our Lord nineteen hundred and forty-five, and of the Independence of the United States of America the one hundred and seventieth.

HARRY S. TRUMAN

By the President:

DEAN ACHESON

Acting Secretary of State.

[SEAL]

* * * * * * * *
e. UNITED STATES SUBMERGED LANDS ACT (1953) ¹
Approved May 22, 1953

AN ACT

To Confirm and Establish the Titles of the States to Lands Beneath Navigable Waters Within State Boundaries and to the Natural Resources Within Such Lands and Waters, to Provide for the Use and Control of Said Lands and Resources, and to Confirm the Jurisdiction and Control of the United States over the Natural Resources of the Seabed of the Continental Shelf Seaward of State Boundaries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Submerged Lands Act."

TITLE I
DEFINITION

SECTION 2. WHEN USED IN THIS ACT.—
(a) The term "lands beneath navigable waters" means—

(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;

(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(b) The term "boundaries" includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 4 hereof but in no

event shall the term “boundaries” or the term “lands beneath navigable waters” be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico;

(c) The term “coast line” means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters;

(d) The terms “grantees” and “lessees” include (without limiting the generality thereof) all political subdivisions, municipalities, public and private corporations, and other persons holding grants or leases from a State, or from its predecessor sovereign if legally validated, to lands beneath navigable waters if such grants or leases were issued in accordance with the constitution, statutes, and decisions of the courts of the State in which such lands are situated, or of its predecessor sovereign: Provided, however, That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign;

(e) The term “natural resources” includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power;

(f) The term “lands beneath navigable waters” does not include the beds of streams in lands now or heretofore constituting a part of the public lands of the United States if such streams were not meandered in connection with the public survey of such lands under the laws of the United States and if the title to the beds of such streams was lawfully patented or conveyed by the United States or any State to any person;

(g) The term “State” means any State of the Union;

(h) The term “person” includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

**Title II**

**Lands Beneath Navigable Waters Within State Boundaries**

**Section 3. Rights of the States.—**

(a) It is hereby determined and declared to be in the public interest that (1) title to and ownership of the lands beneath
navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are hereby, subject to the provisions hereof, recognized, confirmed, established, and vested in and assigned to the respective States or the persons who were on June 5, 1950, entitled thereto under the law of the respective States in which the land is located, and the respective grantees, lessees, or successors in interest thereof;

(b) (1) The United States hereby releases and relinquishes unto said States and persons aforesaid, except as otherwise reserved herein, all right, title, and interest of the United States, if any it has, in and to all said lands, improvements, and natural resources; (2) the United States hereby releases and relinquishes all claims of the United States, if any it has, for money or damages arising out of any operations of said States or persons pursuant to State authority upon or within said lands and navigable waters; and (3) the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States shall pay to the respective States or their grantees issuing leases covering such lands or natural resources all moneys paid thereunder to the Secretary of the Interior or to the Secretary of the Navy or to the Treasurer of the United States and subject to the control of any of them or to the control of the United States on the effective date of this Act, except that portion of such moneys which (1) is required to be returned to a lessee; or (2) is deductible as provided by stipulation or agreement between the United States and any of said States;

(c) The rights, powers, and titles hereby recognized, confirmed, established, and vested in and assigned to the respective States and their grantees are subject to each lease executed by a State, or its grantee, which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing, or whose grantee issued, such lease, and such rights, powers, and titles are further subject to the rights herein now granted to any person holding any such lease to continue to maintain the lease, and to conduct operations thereunder, in accordance with its provisions, for the full term thereof, and any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued such lease: Provided, however, that, if oil or gas was not being produced from such lease on and before December 11, 1950, or if the primary term of such lease has expired since December
11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued, such lease: Provided, however, That within ninety days from the effective date hereof (i) the lessee shall pay to the State or its grantee issuing such lease all rents, royalties, and other sums payable between June 5, 1950, and the effective date hereof, under such lease and the laws of the State issuing or whose grantee issued such lease, except such rents, royalties, and other sums as have been paid to the State, its grantee, the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States and not refunded to the lessee; and (ii) the lessee shall file with the Secretary of the Interior or the Secretary of the Navy and with the State issuing or whose grantee issued such lease, instruments consenting to the payment by the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States to the State or its grantee issuing the lease, of all rents, royalties, and other payments under the control of the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States or the United States which have been paid, under the lease, except such rentals, royalties, and other payments as have also been paid by the lessee to the State or its grantee;

(d) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of said lands and waters for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power;

(e) Nothing in this Act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian, relating to the ownership and control of ground and surface waters; and the control, appropriation, use, and distribution of such waters shall continue to be in accordance with the laws of such States.

SECTION 4. SEAWARD BOUNDARIES.—

The seaward boundary of each original coastal State is hereby approved and confirmed as a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the inter-
national boundary. Any State admitted subsequent to the forma-
tion of the Union which has not already done so may extend its
seaward boundaries to a line three geographical miles distant from
its coast line, or to the international boundaries of the United
States in the Great Lakes or any other body of water traversed
by such boundaries. Any claim heretofore or hereafter asserted
either by constitutional provision, statute, or otherwise, indicating
the intent of a State so to extend its boundaries is hereby approved
and confirmed, without prejudice to its claim, if any it has, that
its boundaries extend beyond that line. Nothing in this section is
to be construed as questioning or in any manner prejudicing the
existence of any State’s seaward boundary beyond three geographical
miles if it was so provided by its constitution or laws prior to
or at the time such State became a member of the Union, or if it
has been heretofore approved by Congress.

SECTION 5. EXCEPTIONS FROM OPERATION OF SECTION 3 OF
THIS ACT.—

There is excepted from the operation of section 3 of this Act—

(a) all tracts or parcels of land together with all accretions
thereto, resources therein, or improvements thereon, title to which
has been lawfully and expressly acquired by the United States
from any State or from any person in whom title had vested under
the law of the State or of the United States, and all lands which
the United States lawfully holds under the law of the State; all
lands expressly retained by or ceded to the United States when the
State entered the Union (otherwise than by a general retention or
cession of lands underlying the marginal sea); all lands acquired
by the United States by eminent domain proceedings, purchase,
cession, gift, or otherwise in a proprietary capacity; all lands filled
in, built up, or otherwise reclaimed by the United States for its
own use; and any rights the United States has in lands presently
and actually occupied by the United States under claim of right;

(b) such lands beneath navigable waters held, or any interest
in which is held by the United States for the benefit of any tribe,
band, or group of Indians or for individual Indians; and

(c) all structures and improvements constructed by the
United States in the exercise of its navigational servitude.

SECTION 6. POWERS RETAINED BY THE UNITED STATES.—

(a) The United States retains all its navigational servitide
and rights in and powers of regulation and control of said lands
and navigable waters for the constitutional purposes of commerce,
navigation, national defense, and international affairs, all of which
shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective States and others by section 3 of this Act.

(b) In time of war or when necessary for national defense, and the Congress or the President shall so prescribe, the United States shall have the right of first refusal to purchase at the prevailing market price, all or any portion of the said natural resources, or to acquire and use any portion of said lands by proceeding in accordance with due process of law and paying just compensation therefor.

SECTION 7.—Nothing in this Act shall be deemed to amend, modify, or repeal the Acts of July 26, 1866 (14 Stat. 251), July 9, 1870 (16 Stat. 217), March 3, 1877 (19 Stat. 377), June 17, 1902 (32 Stat. 388), and December 22, 1944 (58 Stat. 887), and Acts amendatory thereof or supplementary thereto.

SECTION 8.—Nothing contained in this Act shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: Provided, however, That nothing contained in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact or in law applies to the lands subject to this Act, or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything contained in this Act.

SECTION 9.—Nothing in this Act shall be deemed to affect in any wise the rights of the United States to the natural resources of that portion of the subsoil and seabed of the Continental Shelf lying seaward and outside of the area of lands beneath navigable waters, as defined in section 2 hereof, all of which natural resources appertain to the United States, and the jurisdiction and control of which by the United States is hereby confirmed.

SECTION 10.—Executive Order Numbered 10426, dated January 16, 1953, entitled “Setting Aside Submerged Lands of the Continental Shelf, as a Naval Petroleum Reserve,” is hereby revoked insofar as it applies to any lands beneath navigable waters as defined in section 2 hereof.

SECTION 11. SEPARABILITY.—If any provision of this Act, or
any section, subsection, sentence, clause, phrase, or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, or phrase or individual word to other persons and circumstances shall not be affected thereby; without limiting the generality of the foregoing, if subsection 3 (a) 1, 3 (a) 2, 3 (b) 1, 3 (b) 2, 3 (b) 3, or 3 (c) of any provision of any of those subsections is held invalid, such subsection or provision shall be held separable and the remaining subsections and provisions shall not be affected thereby.

Approved May 22, 1953.

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**d. OUTER CONTINENTAL SHELF LANDS ACT (1953)**

*Approved August 7, 1953*

**AN ACT**

To Provide for the Jurisdiction of the United States Over the Submerged Lands of the Outer Continental Shelf and to Authorize the Secretary of the Interior to Lease Such Lands for Certain Purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Outer Continental Shelf Lands Act.”

**SECTION 2. DEFINITIONS.—WHEN USED IN THIS ACT—**

(a) The term “outer Continental Shelf” means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) the term “Secretary” means the Secretary of the Interior;

(c) The term “mineral lease” means any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and

(d) The term “person” includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

**SECTION 3. JURISDICTION OVER OUTER CONTINENTAL SHELF.—**

(a) It is hereby declared to be the policy of the United States

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that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act.

(b) This Act shall be construed in such manner that the character as high seas of the water above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected.

SECTION 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—

(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are hereby extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: Provided, however, That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this Act.

(2) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of the effective date of this Act are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for
the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

(c) With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (c), compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or a member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island or fixed structure referred to in subsection (a) shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure.

(e) (1) The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) or on the waters adjacent thereto, as he may deem necessary.

(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor
and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

(f) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is hereby extended to artificial islands and fixed structures located on the outer Continental Shelf.

(g) The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands and fixed structures referred to in subsection (a) or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

SECTION 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—

(a) (1) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production.

(2) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the pro-
tection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6 (b), clause (2), hereof if the lease is maintained under the provisions of section 6 hereof.

(b) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 8 (j), if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

(c) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power
Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

**SECTION 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.**—

(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as provided in section 7 hereof or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary,
who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;

(10) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provi-
sions of paragraphs (8), (9) and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: Provided, however, That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of such subsection (b) unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: Provided further, That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this Act: Provided further, That if the primary term of a lease being maintained under subsection (b) hereof has expired prior to the effective date of this Act and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from the effective date of this Act and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or respecting activities conducted under the lease, prior to the effective date of this Act.

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such
determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

SECTION 7. CONTROVERSY OVER JURISDICTION.—

In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (b) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6 (a) (4) hereof upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already so, shall comply with the requirements of section 6 (a), and thereupon the provisions of section 6 (b) shall govern such lease. The notice concerning “Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico” issued by the Secretary on December 11, 1950 (15 F.R. 8885), as amended by the notice dated January 26, 1951 (16 F.R. 953), and as supplemented by the notices dated February 2, 1951 (16 F.R. 1203), March 5, 1951 (16 F.R. 2195), April 23, 1951 (16 F.R. 3623), June 25, 1951 (16 F.R. 6404), August 22, 1951 (16 F.R. 8720), October 24, 1951 (16 F.R. 10998), December 21, 1951 (17 F.R. 43), March 25, 1952 (17 F.R. 2821), June 26, 1952 (17 F.R. 5833), and December 24, 1952 (18 F.R. 48), respectively, is hereby approved and confirmed.
SECTION 8. LEASING OF OUTER CONTINENTAL SHELF.—

(a) In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12 1/2 per centum in amount of value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned, with a cash bonus fixed by the Secretary.

(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12 1/2 per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.

(c) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(d) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant
construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

(e) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(f) Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

(g) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

(h) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

(i) The Secretary may cancel any lease obtained by fraud or misrepresentation.

(j) Any person complaining of a cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within sixty days after the Secretary takes such action.

SECTION 9. DISPOSITION OF REVENUES.—

All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

SECTION 10. REFUNDS.—

(a) Subject to the provisions of subsection (b) hereof, when it appears to the satisfaction of the Secretary that any person has
made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the making of the payment, or within ninety days after the effective date of this Act. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 9 of this Act and to issue his warrant in settlement thereof.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: Provided, That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress.

SECTION 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.

SECTION 12. RESERVATIONS.—

(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary
of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

(f) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

**Section 13. Naval Petroleum Reserve Executive Order Repealed.**

Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve," is hereby revoked.
Section 14. Prior Claims Not Affected.—

Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: Provided, however, That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this Act or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

Section 15. Report by Secretary.—

As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connection with the administration of this Act during the preceding fiscal year.

Section 16. Appropriations.—

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Section 17. Separability.—

If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.

Approved August 7, 1953.

2. Territorial Waters and Fisheries

a. Introductory Note. Presidential Proclamation No. 2668, concerning fisheries, and the accompanying Executive Order No. 9634, both of 28 September 1945, are printed below. The Proclamation and Executive Order have also been published in U.N. Leg. Series I (1951), pages 112 and 113; 40 A.J.I.L., Supp. 1946, pages 46 and 48; and the Proclamation in I.C.J., Pleadings, 1951, U.K.-Norway, II, page 252. The Legal Adviser of the Department of State has written as follows on the policy of the United States respecting fisheries as enunciated in the Proclamation: "* * * This [Proclamation] declares the policy of the United States on the establish-
ment of fishery conservation zones in the high seas contiguous to its coasts. Where such fishing activities are maintained by United States nationals alone, it regards it as proper that regulation be exercised by the United States exclusively. But when the fishing activities have been legitimately developed and maintained jointly by nationals of the United States and nationals of other States, conservation zones may be established by agreement between the United States and such other States. This proclamation has been misunderstood by some as implying a claim to exclusive fishing rights for United States nationals in the waters off its coasts. The proclamation asserts no such claim, and such is not the position of the United States. """" Phleger, "Recent Developments Affecting the Regime of the High Seas," 32 Department of State Bulletin 934 (6 June 1955) at page 936. (Footnotes omitted.) For other comment on the Fisheries Proclamation, see Bibliographical Note, supra.

The United States has maintained that three miles is the legal limit of the territorial sea, except where larger claims could be justified on a historical basis. A/CN.4/99/Add. 1, page 82. The United States has, however, asserted the right to take certain exceptional measures beyond this limit. Examples of U.S. legislation asserting such claims are the U.S. Tariff Act, 17 June 1930, as amended, and the Anti-Smuggling Act, 5 August 1935, as amended. Relevant extracts from both Acts are printed in U.N. Leg. Series I (1951), pages 101 and 107. Phleger, supra, pages 934-35, characterizes the exceptions to the principle of the freedom of the seas as follows: """"Thus, it has long been recognized that a State may suppress piracy. It may seize a vessel flying its flag without authority. The right of hot pursuit is accepted. The enforcement, on the part of coastal States, of revenue and sanitary laws is recognized. Finally, in this modern age, the right of a State, for defense or security purposes, to take preventive measures on the high seas is in process of development. """"(Footnotes omitted.) A recent official statement of the United States position on the limits of territorial waters is contained in A/2934, page 45, at page 46, Note of 3 February 1955 from the Permanent Delegation of the United States to the United Nations, commenting on the draft articles on the territorial sea of the International Law Commission. Three paragraphs from this statement are quoted here in order to give the views of the United States on this question:

""""So far as concerns the question of the breadth of the territorial sea and the various suggestions set out in paragraph 68 of the report, the guiding principle of the Government of the United States is that any proposal must be clearly consistent with the principle of freedom of the seas. Some of the proposals amount to a virtual abandonment or denial of that principle. In this connexion, it must be pointed out that the high seas are an area under a definite and established legal status which requires freedom of navigation and use for all. They are not an area in which a legal vacuum exists free to be filled by individual States, strong or weak. History attests to the failure of that idea and to the evolution of the doctrine of the freedom of the seas as a principle fair to all. The regime of territorial waters itself is an encroachment on that doctrine and any breadth of territorial waters is in derogation of it, so the derogations must be kept to an absolute minimum, agreed to by all as in the interest of all.
"That the breadth of the territorial sea should remain fixed at three miles, is without any question the proposal most consistent with the principle of freedom of the seas. The three-mile limit is the greatest breadth of territorial waters on which there has ever been anything like common agreement. Everyone is now in agreement that the coastal State is entitled to a territorial sea to that distance from its shores. There is no agreement on anything more. If there is any limit which can safely be laid down as fully conforming to international law, it is the three-mile limit. This point, in the view of the Government of the United States, is often overlooked in discussions on this subject, where the tendency is to debate the respective merits of various limits as though they had the same sanction in history and in practice as the three-mile limit. But neither six nor nine nor twelve miles, much less other more extreme claims for territorial seas, has the same historical sanction and a record of acceptance in practice marred by no protest from other States. A codification of the international law applicable to the territorial sea must, in the opinion of the Government of the United States, incorporate this unique status of the three-mile limit and record its unquestioned acceptance as a lawful limit.

"This being established, there remains the problem of ascertaining the status of claims to sovereignty beyond the three-mile limit. The diversity of the claims involved bears witness, in the opinion of the Government of the United States to the inability of each to command the degree of acceptance which would qualify it for possible consideration as a principle of international law. Not only does each proposed limit fail to command the positive support of any great number of nations, but each has been strongly opposed by other nations. This defect is crucial and, in view of the positive rule of freedom of the sea now in effect in the waters where the claims are made, no such claim can be recognized in the absence of common agreement. A codification of the international law applicable to the territorial sea should, in the view of the Government of the United States, record the lack of legal status of these claims. * * *

Other recent United States developments are referred to elsewhere in this book. Most of the Fishery Treaties to which the United States is a party are reprinted supra, Section III. Documents concerning United States participation in Inter-American Conferences appear, supra, Section II, C. The Chile-Ecuador-Peru Agreements, affecting United States interests, are printed, supra, Section II, D. The United States has made formal protests against certain claims of other States which are referred to in connection with the State concerned, infra. A typical Protest Note is printed under Chile, infra. Texts of United States Protest Notes to Chile, El Salvador, Saudi Arabia, Argentina, Peru, Egypt and Ecuador are collected in I.C.J., Pleadings, 1951, U.K.-Norway, IV, pages 599-604. Comments giving the United States viewpoint with respect to fisheries are in A/CN.4/99/Add. 1, pages 75-81; with respect to territorial waters, Ibid., page 82, and A/2934, pages 45-46, partially quoted, supra, in this note; and with respect to the Continental Shelf, A/2456, page 70. See, also, A/CN.4/19, page 104.

As a result of seizures of American vessels on the high seas in areas claimed by other States as territorial waters, Congress, in 1954, passed an Act to protect the rights of vessels of the United States on the high seas and in

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b. PRESIDENTIAL PROCLAMATION, 28 SEPTEMBER 1945
(Proclamation No. 2668, 10 F.R. 12304)

Whereas for some years the Government of the United States of America has viewed with concern the inadequacy of present arrangements for the protection and perpetuation of the fishery resources contiguous to its coasts, and in view of the potentially disturbing effect of this situation, has carefully studied the possibility of improving the jurisdictional basis for conservation measures and international cooperation in this field; and

Whereas such fishery resources have a special importance to coastal communities as a source of livelihood and to the nation as a food and industrial resource; and

Whereas the progressive development of new methods and techniques contributes to intensified fishing over wide sea areas and in certain cases seriously threatens fisheries with depletion; and

Whereas there is an urgent need to protect coastal fishery resources from destructive exploitation, having due regard to conditions peculiar to each region and situation and to the special rights and equities of the coastal State and of any other State which may have established a legitimate interest therein;

Now, therefore, I, Harry S. Truman, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to coastal fisheries in certain areas of the high seas:

In view of the pressing need for conservation and protection of fishery resources, the Government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed and maintained by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed, maintained jointly by nationals of the United States and
nationals of other States, explicitly bounded conservation zones may be established under agreements between the United States and such other States; and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements. The right of any State to establish conservation zones off its shores in accordance with the above principles is conceded, provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such areas. The character as high seas of the areas in which such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-eighth day of September, in the year of our Lord nineteen hundred and forty-five, and of the Independence of the United States of America the one hundred and seventieth.

By the President:

DEAN ACHESON
Acting Secretary of State.

[SEAL]

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c. EXECUTIVE ORDER, 28 SEPTEMBER 1945
(Executive Order No. 9634, 10 F.R. 12305)

By virtue of and pursuant to the authority vested in me as President of the United States, it is hereby ordered that the Secretary of State and the Secretary of the Interior shall from time to time jointly recommend the establishment by Executive orders of fishery conservation zones in areas of the high seas contiguous to the coasts of the United States, pursuant to the proclamation entitled “Policy of the United States With Respect to Coastal Fisheries in Certain Areas of the High Seas,” this day signed by me, and said Secretaries shall in each case recommend provisions to be incorporated in such orders relating to the administration, regulation and control of the fishery resources of and fishing activities in such zones, pursuant to authority of law heretofore or hereafter provided.

THE WHITE HOUSE
September 28, 1945.

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**Section 1971. Definition.**

For the purposes of this chapter the term "vessel of the United States" shall mean any private vessel documented or certificated under the laws of the United States.

**Section 1972. Action by Secretary of State Upon Seizure of Vessel of Foreign Country.**

In any case where—

(a) a vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; and

(b) there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall as soon as practicable take such action as he deems appropriate to attend to the welfare of such vessel and its crew while it is held by such country and to secure the release of such vessel and crew.

**Section 1973. Reimbursement of Owner for Fine Paid to Secure Release of Vessel and Crew.**

In any case where a vessel of the United States is seized by a foreign country under the conditions of section 1972 of this title and a fine must be paid in order to secure the prompt release of the vessel and crew, the owners of the vessel shall be reimbursed by the Secretary of the Treasury in the amount certified to him by the Secretary of State as being the amount of the fine actually paid.

**Section 1974. Inapplicability of Chapter to Certain Seizures.**

The provisions of this chapter shall not apply with respect to a seizure made by a country at war with the United States or a seizure made in accordance with the provisions of any fishery convention or treaty to which the United States is a party.

**Section 1975. Action by Secretary on Claims for Amounts Expended Because of Seizure.**

The Secretary of State shall take such action as he may deem appropriate to make and collect on claims against a foreign
country for amounts expended by the United States under the provisions of this chapter because of the seizure of a United States vessel by such country.

Section 1976. Authorization of Appropriations.—
There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this chapter.

[Table of Contents and Citations omitted.]
B. SIGNIFICANT DEVELOPMENTS IN OTHER COUNTRIES
B. Significant Developments in Other Countries

1. Argentina

Note. Argentina was one of the first countries to make a claim to the continental shelf. Presidential Decree No. 1386 of 24 January 1944, concerning Mineral Reserves, Article 2, reads in part as follows: "* * * zones of the epicontinental sea of Argentina shall be deemed to be temporary zones of mineral reserves; * * *" U. N. Leg. Series I, (1951), page 3. Presidential Decree No. 14,708 of 11 October 1946, concerning National Sovereignty over Epicontinental Sea and the Argentina Continental Shelf and basing itself on Article 2 of the 1944 Decree, states in Article 1: "It is hereby declared that the Argentine epicontinental sea and continental shelf are subject to the sovereign power of the nation;" (italics supplied). In Article 2 of the 1944 Decree, the claimed waters are declared to be unaffected for purposes of free navigation. U. N. Leg Series I, (1951), page 4; N. W. C., I. L. Documents, 1948-49, page 187; I. C. J., Pleadings, 1951, U. K.-Norway, II, page 254; 41 A. J. I. L., Supp., 1947, page 11. The United States sent a Protest Note to Argentina with respect to this Decree on 2 July 1948. U. N. Leg. Series I, (1951), page 5; I. C. J., Pleadings, 1951, U. K.-Norway, IV, page 601; A/CN.4/19, page 115. Argentine national legislation on territorial waters and fishing are printed in U. N. Leg. Series I (1951), page 51.

2. Australia

a. Note. There have been significant developments in Australia and the documentation thereof is too extensive to be reproduced here in full. Two Proclamations of the Governor-General of 10 September 1953, reprinted below, claim sovereign rights over the continental shelf off the coasts of Australian territory, and off the coasts of the Trusteeship Territory of New Guinea. Related legislation and proclamations define the extent of the continental shelf, and the zones for sedentary fisheries. Section 51(x) of the Commonwealth Constitution gives Parliament authority to legislate with respect to "Fisheries in Australian waters beyond territorial limits." The Fisheries Act, 1952-3, the Pearl Fisheries Act, 1952-3, both as amended, and various Whaling Acts, inter alia, have exercised this authority.

The Fisheries Act, 1952-3, as amended, is typical. In Section 4, "Australian waters" is defined as: "(a) Australian waters beyond territorial limits; (b) the waters adjacent to a territory and within territorial limits; and (c) the waters adjacent to a territory, not being part of the Commonwealth, and beyond territorial limits; * * *" "Proclaimed waters" are Australian waters specified by Proclamation in force under Section 7 of the Act. Section 7 also gives the Minister power to prohibit fishing in "proclaimed waters." Section 9 confers licensing authority. Similar definitions of "Australian waters" appear in the Pearl Fishing Act, 1952-3, as amended. In the Whaling Act, 1935-1948, the definition is somewhat narrower. The Proclamations and the fishery developments are discussed in detail in Goldie, "Australia's Continental Shelf: Legislation and Proclamations," 3 I. C. L. Q.
(1954), page 535 (with map showing claims at pages 536–37), and O’Connell, “Sedentary Fisheries and the Australian Continental Shelf,” 49 A. J. I. L. (1955), page 185. In A/2934, page 25, the Australian Mission to the United Nations stated that Australia preferred not to comment on International Law Commission drafts in view of the pending dispute between Japan and Australia, which the governments concerned were considering submitting to the International Court of Justice for solution. The texts of the Proclamations are taken from 48 A. J. I. L., Supp., 1954, pages 102–103.

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b. PROCLAMATION, CONTINENTAL SHELF, AUSTRALIA

(10 September 1953)

Commonwealth of Australia to wit.

W.J. Slim
 Governor-General

By His Excellency the Governor-General in and over the Commonwealth of Australia

WHEREAS International Law recognizes that there appertain to a coastal State or territory sovereign rights over the sea-bed and subsoil of the continental shelf contiguous to its coasts for the purpose of exploring and exploiting the natural resources of that sea-bed and subsoil:

And whereas it is desirable to declare that Australia has those sovereign rights over the sea-bed and subsoil of the continental shelf contiguous to any part of the coasts of certain territories under its authority:

Now therefore I, Sir William Joseph Slim, the Governor-General aforesaid, acting with the advice of the Federal Executive Council, hereby declare that Australia has sovereign rights over the sea-bed and subsoil of—

(a) the continental shelf contiguous to any part of its coasts; and

(b) the continental shelf contiguous to any part of the coasts of territories under its authority other than territories administered under the trusteeship system of the United Nations,

for the purpose of exploring and exploiting the natural resources of that sea-bed and subsoil:

And I further declare that nothing in this Proclamation affects—

(a) the character as high seas of waters outside the limits of territorial waters; or

(b) the status of the sea-bed and subsoil that lie beneath territorial waters.

1 Commonwealth of Australia Gazette, Sept. 11, 1953, No. 56,
Given under my Hand and the Seal of the Commonwealth of Australia this tenth day of September, in the year of our Lord, One thousand nine hundred and fifty-three, and in the second year of Her Majesty's reign.

By His Excellency's Command,

ROBERT G. MENZIES
Prime Minister

God Save the Queen!

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c. PROCLAMATION, CONTINENTAL SHELF, TERRITORY OF NEW GUINEA

(10 September 1953)

Commonwealth of Australia to wit.
W. J. SLIM
Governor-General

By His Excellency the Governor-General in and over the Commonwealth of Australia

WHEREAS International Law recognizes that there appertain to a coastal state or territory sovereign rights over the sea-bed and subsoil of the continental shelf contiguous to its coasts for the purpose of exploring and exploiting the natural resources of that sea-bed and subsoil:

And whereas it is desirable to declare that those sovereign rights exist in respect of the Territory of New Guinea:

And whereas the Territory of New Guinea is administered by the Government of Australia under the trusteeship system of the United Nations:

Now therefore I, Sir William Joseph Slim, the Governor-General aforesaid, acting with the advice of the Federal Executive Council, hereby declare that sovereign rights exist over the sea-bed and subsoil of the continental shelf contiguous to any part of the coasts of the Territory of New Guinea for the purpose of exploring and exploiting the natural resources of that sea-bed and subsoil:

And I further declare that those rights are exercisable by the Government of Australia as the Administering Authority of the Territory of New Guinea:

And I also declare that nothing in this Proclamation affects—

(a) the character as high seas of waters outside the limits of territorial waters; or

(b) the status of the sea-bed and subsoil that lie beneath territorial waters.

Given under my Hand and the Seal of the Commonwealth of
Australia this tenth day of September, in the year of our
(L.S.) Lord, One thousand nine hundred and fifty-three, and in
the second year of Her Majesty’s reign.

By His Excellency’s Command,

ROBERT G. MENZIES
Prime Minister
God Save the Queen!

3. Brazil

a. NOTE. Presidential Decree No. 28,840, integrating into national terri-

ory the adjoining part of the continental shelf, of 8 November 1950, is

printed in U. N. Leg. Series I (1951), page 299. The text of the Decree,

omitting the preamble, as there translated, is reproduced below. A French


In a Note from Brazil to Norway, it is stated that 3 miles is their territorial

water limit, and that 12 miles for fishing is a contiguous zone. Ibid., III,

page 661. Other related Brazilian legislation, in French translation, may be

found, Ibid., III, pages 659–662. Comments by Brazil on various drafts of

the International Law Commission appear in A/CN.4/99, page 13; A/2934,

page 26; and A/2456, page 43.

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b. PRESIDENTIAL DECREE NO. 28,840, 8 NOVEMBER 1950 (EXCERPTS)

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ARTICLE 1. It is formally proclaimed that part of the con-
tinental shelf which adjoins (correspondente) the continental and

sular territory of Brazil is integrated into that territory, under

the exclusive jurisdiction and dominion of the Federal Union.

ARTICLE 2. The utilization and exploration of products or

natural resources of that part of the national territory shall be

subject in all cases to federal authorization or concession.

ARTICLE 3. The rules governing navigation in the waters

covering the aforesaid continental shelf shall continue in force

without prejudice to any further rules which may be made,

especially as regards fishing in that area.

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4. Bulgaria

a. NOTE. A Decree-Law concerning territorial waters of 25 August 1935

is printed in U. N. Leg. Series I, (1951), page 53. Article 1 thereof claimed

6 miles as the extent of territorial waters. A Decree of 10 October 1951,

reprinted below, claims in Article 1 territorial waters of 12 miles. By Article

17 thereof, the Decree of 1951 supersedes the Decree Law of 1935. The text

of what appears to be the 10 October 1951 Decree, as translated, is printed


Decree, No. 514, reprinted below, was translated by the United Nations

Secretariat, and is substantially the same as that in the American Journal
except for Article 3. Article 3 (Section 3) in the American Journal of
International Law translation reads as follows: "For the security of the
country, the Council of Ministers may close, by decree, individual zones of
the territorial waters of the Republic to all navigation." Articles 16 and 17
are omitted. There is also a difference in the third paragraph of Article 10,
which in the A. J. I. L. version refers to Article 9, and in the U. N. text
to article 8. The A. J. I. L. reading is believed to be the correct one. There
is a note discussing the significance of this Decree by Pundeff in 46 A. J. I. L.
(1952), page 330. A letter of October 3, 1956, from the Counselor of the
Royal Swedish Embassy to the Editor, confirms that Sweden sent Bulgaria
a Note of Protest concerning this claim of 12 miles.

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b. DECREES OF 10 OCTOBER 1951 CONCERNING THE TERRITORIAL AND
INLAND WATERS OF THE PEOPLE'S REPUBLIC OF BULGARIA 2

1. The territorial waters of the People's Republic of Bulgaria
extend into the open sea to a distance of twelve miles from the
water-line on the mainland and island coasts, from the further-
most points of port installations and from the boundary of inland
waters.

A nautical mile is equal to 1,852 metres.

2. The sea between the coast and a straight line drawn, in the
case of Stalin Bay, from Cape Saint Constantine to Cape Ilandzhik
and, in the case of Burgas Bay, from Cape Emine to the Cape of
Olives (Zeytin Burun) is deemed to be part of the inland waters
of the People's Republic of Bulgaria.

3. The belt of territorial waters extending three miles from the
territory of the People's Republic constitutes the maritime frontier
zone of the People's Republic of Bulgaria.

4. The line of demarcation between the territorial waters of the
People's Republic and those of neighbouring States is the geo-
graphic parallel extending from the point at which the land
frontier meets the coast.

5. The inland and territorial waters of the People's Republic,
as well as the air space above them and the sea-bed and subsoil
beneath them, are part of the territory of the People's Republic
and are subject only to its laws.

6. The People's Republic of Bulgaria exercises sovereignty over
the territorial waters referred to in article 5 in accordance with
existing laws, the rules of international law and treaties and agree-
ments concluded with other States.

7. The ports of Stalin and Sozopol are declared closed to navi-
gation by foreign ships.

Other ports of the People's Republic of Bulgaria may be declared

2 Translation by the Secretariat of the United Nations.
closed to navigation by foreign ships by order of the Council of Ministers.

8. A foreign ship other than a naval ship may without restriction pass through or stop or anchor in the territorial and inland waters of the People's Republic, other than the waters of the maritime frontier zone, or enter ports which are not closed to navigation by foreign ships, when it does so on its regular course or when compelled to do so by damage or storm.

Such ships shall be permitted to pass through inland waters solely for the purpose of entering or leaving ports at the places designated by the port authorities.

A foreign ship other than a naval ship may, if endangered by a severe storm, request permission to enter one of the bays and ports southwest of Cape Kaliakra or Cape Emine, where it may remain only for the duration of the storm.

9. A foreign naval ship may not pass through or stop or anchor in the territorial and inland waters of the People's Republic or enter ports which are not closed to navigation by foreign ships except with the prior authorization of the Government of the People's Republic of Bulgaria or in the event of damage or when seeking shelter from a storm.

10. No foreign submarine vessel of any kind may navigate, stop, lie on the bottom or anchor while submerged in the territorial or inland waters of the People's Republic.

Any submarine vessel found submerged in the territorial or inland waters of the People's Republic shall be pursued and destroyed without warning, and no liability for the consequences shall be incurred.

The provisions of article 8 [article 9(?) ] shall apply in the case of submarine vessels navigating on the surface.

11. Foreign ships may not engage, while in the territorial or internal waters or ports of the People's Republic, in sounding, research, study, photography, naval exercises, firing or other similar activities, or make use of radio transmitters, radar, echosounding or like devices other than those intended for purposes of navigation. Such ships shall comply strictly with established international rules, the laws of the People's Republic of Bulgaria and the regulations made thereunder by the competent Government authorities for the preservation of the social order, security, sanitary requirements and fiscal interests of the People's Republic.

The use of radio transmitters shall be permitted only in the case of damage or to save the lives of shipwrecked persons, and depth-sounding, in the immediate vicinity of the ship, shall be permitted only if the vessel runs aground.
12. Any foreign ship which within the zone of the territorial and inland waters violates the laws of the People's Republic, the rules and regulations made thereunder or established international rules, treaties and agreements relating to navigation, shall be requested by the competent maritime frontier guard unit or by the port authorities, by means of established international signals or a warning shot, to leave the territorial waters of the People's Republic.

13. A foreign naval ship which does not comply with a signal requesting it to leave the territorial waters of the People's Republic may be fired on and no liability for the consequences shall be incurred.

14. A foreign ship other than a naval ship which commits a serious offence (such as the illicit import or export of goods, or the concealing of persons without documents or persons sought by the authorities) or fails to comply with a signal requesting it to leave the territorial waters of the People's Republic may be detained by the competent maritime frontier guard unit with a view to the prosecution of the offenders or the payment of the dues and fines prescribed by law.

A ship which fails to comply with a requirement and attempts to take refuge on the high seas may be pursued with a view to seizure by maritime frontier guard units without interruption to the boundary of the territorial waters of another State.

15. No charge shall be levied upon foreign naval ships which are authorized to pass through the territorial waters or to enter the ports of the People's Republic, except for specific services rendered.

* * * * * * * *

Done at Sofia on 10 October 1951, as No. 514, and sealed with the State seal.

5. Canada

Note. The Canadian Government has recently announced an important change of position with respect to the breadth of the territorial sea and the method of measuring base lines, which it proposed to espouse at the 1956 Session of the General Assembly. The proposal is that by means of international agreement, Canada would extend her territorial waters to 12 miles, and would measure the base lines from headland to headland instead of from the main coast line as heretofore. Historic fishing rights of other countries would be respected. The New York Times, 5 August 1956, page 45, column 1. The debate on which the article was based is contained in House of Commons Debates, Volume 98, No. 139, 3rd Session, 22nd Parliament, 30 July 1956, pages 6700–6703.

The Coastal Fisheries Protection Act, assented to on 31 March 1953,
Canadian Statutes, 1952–3, Chapter 15, contains the following definition in Section 2:

"2(b) : 'Canadian territorial waters' means any waters designated by any Act of the Parliament of Canada or by the Governor in Council as the territorial waters of Canada, or any waters not so designated being within three marine miles of any of the coasts, bays, creeks, or harbours of Canada, * * *.'"

Canada's comments to the International Law Commission with respect to the draft articles on fisheries appear in A/CN.4/99/Add. 7.

6. Chile

a. Note on Claims and Protests. The tripartite claims of Chile-Ecuador-Peru to a maritime zone of 200 miles for exclusive exploitation of fisheries, and related developments, are given, together with the documents, in Section II, D, supra. Chile was the first state to make the unilateral claim to a 200 mile zone for fisheries in its Presidential Declaration concerning the Continental Shelf, 23 June 1947. An English translation of the Declaration, together with the text of the United States Protest Note, appear in U. N. Leg. Series I, (1951), page 6. Another English translation of the Declaration is printed in N.W.C., I.L. Documents, 1948–49, page 188. There is a French translation in I.C.J., Pleadings, 1951, U.K.-Norway, II, page 256. The Protest Note of the United Kingdom to Chile, a Note from the Netherlands to the United Kingdom stating the claim would not be recognized, a Note from France to the United Kingdom taking the position there was no duty to protest in the absence of official notification and expressing the view such claims were invalid under international law, and the United States Protest Note to Chile, are printed in I.C.J., Pleadings, 1951, U.K.-Norway, II, page 750; IV, page 56; IV, page 605, and IV, page 599. The United States Note appears also in A/CN.4/19, page 114, and 44 A.J.I.L., page 674. In October 1954, Sweden sent identical Notes of Protest on the territorial waters question to Chile, Ecuador and Peru. The Swedish Note to Chile is reprinted below. Although the United States Note of Protest to Chile of 2 July 1948 has been printed elsewhere, it is reprinted here as representative and illustrative. The text is taken from a copy of the Note furnished by the Department of State.

Chile's comments on various drafts of the International Law Commission appear in A/CN.4/99/Add. 1, page 10; and A/2456, page 43.

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b. Swedish Note of Protest to Chile, October 1954, Regarding the Extent of Territorial Waters Along the Coasts of Chile, Ecuador, and Peru. From Utrikesfrågor 1954, Ch. X, Published by the Swedish Royal Foreign Office

"The attention of the Swedish Government has been drawn to the fact that Chile's (Ecuador's, Peru's) delegates to a conference between Chile, Ecuador, and Peru for the exploitation and conservation of the natural sea resources of the Pacific Ocean, in August 1952, made claims to exclusive sovereignty and jurisdiction over the
ocean area along the coasts of the said countries to a width of at least 200 nautical miles, which sovereignty and jurisdiction were to include exclusive sovereignty and jurisdiction over the sea-bed within the same area and the right to regulate fishing and whaling within the area.

“The Swedish Government wishes by reason thereof to call attention to the fact that international regulations pertaining to the ocean have been included by the United Nations among the subjects to be taken up for codification and that the International Law Commission of the United Nations has accordingly prepared proposed regulations governing the so-called continental shelf, defined as “the sea-bed and subsoil of the submarine areas contiguous to the coast, but outside the area of territorial waters.” The proposed regulations expressly state that the rights of coastal states with respect to the continental shelf shall not apply to the waters above it in their capacity as high seas.

“The proposal has not yet resulted in any international agreement, and until such an agreement has been reached the Swedish Government must consider the question of the rights of coastal states over the continental shelf as being an open question. Under any circumstances, it is the firm conviction of the Swedish Government that these rights should not be allowed to infringe upon the freedom of the seas or upon the rights, among other things, with respect to shipping and fishing, which according to international law belong to all nations on the high seas.

“With respect to the extent of territorial waters, the Swedish Government has repeatedly declared itself prepared to recognize the limits that have been historically established, for example, 3-, 4-, or 6-mile limits, but that it deems an extension of territorial waters beyond these time-honored limits as an encroachment on the freedom of the seas and as a violation of international law.

“For these reasons the Swedish Government cannot refrain from gravely protesting the Chilean (Ecuadorian, Peruvian) Government’s claims to sovereignty over the water area to a width of at least 200 nautical miles from the coast and over the sea-bed, regardless of the depth of the sea, and reserves all rights that these claims or the regulations which the governments of Chile (Ecuador, Peru) may issue on the basis thereof regard-
ing fishing or whaling, shall not affect the rights which Sweden and Swedish citizens enjoy under international law on the high seas.”

* * * * * * *

c. UNITED STATES NOTE OF PROTEST TO CHILE, 2 JULY 1948

“I have the honor to refer to the Decree issued by the President of the Republic of Chile on June 25, 1947 concerning the conservation of the resources of the continental shelf and the epicontinental seas and to advise that I have been instructed by my Government to make certain reservations with respect to the rights and interests of the United States of America.

“The United States Government has carefully studied this declaration of the President of the Republic of Chile. The Declaration cites the Proclamations of the United States of September 28, 1945 in the Preamble. My Government is accordingly confident that His Excellency, the President of the Republic of Chile, in issuing the Declaration, was actuated by the same long-range considerations with respect to the wise conservation and utilization of natural resources as motivated President Truman in proclaiming the policy of the United States relative to the natural resources of the subsoil and seabed of the continental shelf and its policy relative to coastal fisheries in certain areas of the high seas. The United States Government, aware of the inadequacy of past arrangements for the effective conservation and perpetuation of such resources, views with utmost sympathy the considerations which led the Chilean Government to issue its Declaration.

“At the same time, the United States Government notes that the principles underlying the Chilean Declaration differ in large measure from those of the United States Proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular (1) the Chilean Declaration confirms and proclaims the national sovereignty of Chile over the continental shelf and over the seas adjacent to the coast of Chile outside the generally accepted limits of territorial waters, and (2) the Declaration fails, with respect to fishing, to accord appropriate and adequate recognition to the rights and interests of the United States in the high
seas off the coast of Chile. In view of these considerations, the United States Government wishes to indicate to the Chilean Government that it reserves the rights and interests of the United States so far as concerns any effects of the Declaration of June 25, 1947, or of any measures designed to carry that Declaration into execution.

"The reservations thus made by the United States Government are not intended to have relation to or to prejudge any Chilean claim with reference to the Antarctic Continent or other land areas.

"The Government of the United States of America is similarly reserving its rights and interests with respect to decrees issued by the Governments of Argentina and Peru which purport to extend their sovereignty beyond the generally accepted limits of territorial domain."

7. China, Republic of (Nationalist)

Note. According to a Note to the United Nations Secretariat from the Chinese Delegation, dated 9 February 1956, Nationalist China has no legislation on the breadth of territorial waters. It has been reported, however, that the Foreign Ministry notified the American Embassy in Taiwan in March 1956 of a decision of the Executive Yuan extending the territorial water belt to twelve miles. Prior to the receipt of this information, it had been generally understood that the Chinese Nationalist Government adhered to the principle of the three-mile belt of territorial waters. See A/CN.4/99, page 18. China had previously claimed twelve miles for customs purposes. Customs Preventive Law, 19 June 1934, excerpts printed in U. N. Leg. Series I (1951), page 62.

8. Costa Rica

Note. Costa Rica followed the Chilean pattern of claiming 200 miles in its Decree Law No. 116 of 27 July 1948. English translations of this Decree are printed in I.C.J., Pleadings, 1951, U.K.-Norway, IV, page 591, and in N.W.C., I.L. Documents, 1948-49, page 193, where the date was misprinted as 29 July. Significant modifications to this Decree, in terms of claims to sovereignty over the 200 mile zone, were made in Decree Law No. 803 of 2 November 1949. Paragraph 3 of the preamble of the later Decree speaks of a consensus that a coastal state has the right and duty to conserve contiguous fisheries in harmony with the rights of any other state. In the earlier Decree, paragraph 3 of the preamble speaks of an "inalienable right" to treat the adjacent epicontinental sea as part of national territory. Additional paragraphs 5 and 6 of the preamble of the later Decree refer to the policy to be followed in concluding treaties with other states. Article 2 of the earlier Decree asserts national sovereignty over the adjacent seas while Article 2 of the later Decree asserts the rights and interests of Costa Rica. Assertion of the right to "control" within the 200 mile zone in Article 4 of the earlier Decree is omitted and only the right of protection is asserted in Article 4 of the later Decree. English translations of this later Decree of 1949 are printed in U. N. Leg. Series I (1951), page 9, and in I.C.J., Pleadings, 1951,
U.K.-Norway, IV, page 594. For French translation, see Ibid., III, page 666. Notes of Protest by the United Kingdom against these two Decrees are printed in I.C.J., Pleadings, 1951, U.K.-Norway, IV, pages 592 and 595. No Note of Protest, if any, by the United States has been found. It will be noted that the United States and Costa Rica were the original parties to the Inter-American Tropical Tuna Commission, effective 3 March 1950, printed supra, Section III, G, 1. It was also noted above in Section II, D, 1, that Costa Rica was stated to have adhered to the Declaration on the Maritime Zone of 200 miles by Chile-Ecuador-Peru.

In the Political Constitution of 7 November 1949, Article 6 claims the air space above its territorial waters and continental shelf but does not define either of these areas. Article 6 is printed in U. N. Leg. Series I (1951), at page 300. Articles 1 and 7 of the Maritime Hunting and Fishing Act, Decree No. 190 of 28 September 1948, is in Ibid., page 8. Decree No. 426 of 8 March 1949 amended this Act but Articles 1 and 7 are unchanged. Decree No. 363 (or 263?) of 11 January 1949, as amended by Decree No. 739 of 4 October 1949, defines “coastal fishing” as that carried on not more than twelve miles from the coast and gives authority to regulate methods of fishing within areas defined by the appropriate Minister.

9. Cuba


* * * * * * * *

b. ARTICLES 1 AND 2 OF LEGISLATIVE DECREES NO. 1948 OF 27 JANUARY 1955

"ARTICLE 1. The waters situated between the coast of the Island and the adjacent keys are hereby declared internal waters, in so far as neither the distance between the said coast and the keys nor the distance between one key and another exceeds ten miles.

"ARTICLE 2. The State is hereby empowered to take whatever legislative, administrative or technical action is necessary for the protection and conservation of the maritime resources in the zones of the high seas contiguous to the territorial sea of Cuba."

10. Denmark

Note. Danish legislation on fishing and territorial waters is printed in I.C.J., Pleadings, 1951, U.K.-Norway, III, pages 673-676. A Danish Note to
the United Nations of 13 January 1956 states that a committee is studying
A/CN.4/99/Add. 9, Denmark submitted additional comments on the Interna-
tional Law Commission drafts. With respect to the breadth of the terri-
torial sea, Denmark states there is no uniform practice, but that each State
is not free to set its own limits. It believes a modest extension, recognizing
the interests of other States, especially neighboring States, would be reason-
able. Earlier comments by Denmark concerning the continental shelf may be
found in A/2456, page 46 and A/CN.4/86. Act No. 277 of 27 May 1950
dealing with conducting business in Greenland defines territorial waters as
extending 3 miles from dry reefs. The same limit is defined in Notice No.
292 of 11 November 1953 concerning trapping, fishing, and hunting in
Greenland. Denmark enacted legislation on 20 May 1955 defining fishing
areas in the Ocean off the Faroe Islands in accordance with the United
Kingdom-Denmark Exchange of Notes (1955), printed, supra, Section IV,
A, 2. References to diplomatic correspondence between Denmark and the
Soviet Union concerning the limits of territorial waters in the Baltic, and
the texts of Exchange of Notes between Sweden and the Soviet Union on the
same subject, may be found in Union of Soviet Socialist Republics, 36, c,
infra.

11. Dominican Republic

a. Note. Act No. 3342 of 13 July 1952 concerning the extent of the
territorial waters of the Republic, reproduced below, Article V of the Con-
stitution of 1947, as amended on 1 December 1955, also reprinted below, and
the Harbour and Coastal Police Act (No. 3003) of 12 July 1951, are stated
to be the Dominican legislation on the subject in a letter from the Dominican
page 21. The 1951 Act is not available to the Editor, but some of its provi-
sions dealing with jurisdiction over crime, entry into port, and nationality
of vessels, are summarized in Ibid., pages 22–23.

*   *   *   *

b. ARTICLE V OF CONSTITUTION OF 1947 (EXCERPT) *

“Article V * * * The territorial sea and the contin-
tental shelf which correspond to the national territory
are also part of the said territory. The extent of the ter-
ritorial sea and of the continental shelf shall be deter-
mined by statute. * * *”

*   *   *   *   *   *   *

c. ACT NO. 3342 OF 13 JULY 1952 CONCERNING THE EXTENT OF THE
TERRITORIAL WATERS OF THE REPUBLIC *

ARTICLE 1. Except as hereinafter otherwise provided, a zone
of three nautical miles along their coasts, the said zone extending
seaward from the mean low-water mark, is hereby established

3 Translation by the United Nations Secretariat.
4 Translation by the Secretariat of the United Nations.
as the extent of the territorial or jurisdictional waters of the Republic and of its islands or islets.

The channels and waters comprised between Cape Beata, Beata Island, Alto Velo Island, Los Frailes Islet and Cape Falso are declared to be territorial waters of the Republic.

ARTICLE 2. The bays of Samana, Ocoa and Neyba are declared to be historical waters or bays and as such to be subject to the full sovereignty of the State, within the following boundaries:

(a) In the case of Samana Bay: a transverse line plotted between Cape Samana and Cape San Rafael.
(b) In the case of Ocoa Bay: a transverse line plotted between Salinas Point and Martin Garcia Point.
(c) In the case of Neiba Bay: a transverse line plotted between Martin Garcia Point and Avarena Point.

The transverse lines referred to in sub-paragraphs (a), (b) and (c) serve to demarcate the boundaries of the internal waters and the base line of the territorial waters of the bays aforesaid.

ARTICLE 3. The boundaries, extent or legal status of the territorial sea and of the contiguous zone in and in the vicinity of the bay of Manzanillo may be established through a treaty with the neighbouring Republic of Haiti. Pending the conclusion of such a treaty, the Dominican Republic will observe the rules of international law and of equity which it has in the past observed in the said bay and in the waters adjacent thereto.

ARTICLE 4. An additional zone adjacent to the territorial sea is hereby established which will be known as the "contiguous zone" and which shall consist of a belt extending outward from the outer limit of the territorial sea to a distance of twelve nautical miles into the high seas.

In the said contiguous zone the Dominican State shall exercise the powers of jurisdiction and control necessary for the purpose of preventing contravention of Dominican legislation relating to public health, public revenue, customs, fisheries, protection and conservation of marine species.

ARTICLE 5. The Dominican State reserves the right of ownership in and utilization of the natural resources and wealth which occur or may be discovered in the sea bed or subsoil of the sea in an area, adjacent to Dominican territory, the extent of which shall be determined by the National Administration according to the requirements inherent in the taking possession and exploitation of the said natural resources and wealth, and where appropriate, through international treaties. The Dominican State shall have power to set up or to authorize the setting up of structures
or installations necessary for the exploitation of the said resources and to exercise all and any policing measures necessary for their conservation.

ARTICLE 6. The following are declared to be national internal waters:
(a) the waters contained within the indentations of the coast;
(b) the harbours and maritime areas in which structures for the mooring of vessels in general have been or may be set up;
(c) roadsteads and anchorages;
(d) the channels and maritime area comprised within the Siete Hermanos group of islets, and likewise the waters comprised between the said islets and the coast from Manzanillo Point to Luna Point.

ARTICLE 7. The Department of War, Marine and Aviation shall be responsible for giving directions concerning and causing to be installed the navigation marks and signals necessary for the purposes of this Act.

ARTICLE 8. All Acts and other legislative provisions which are inconsistent with this Act, and specifically article 76 of the General Police Regulations of 15 June 1923, published in Gaceta Oficial No. 3440, are hereby repealed.

TRANSITIONAL PROVISION. The dimensions of the territorial sea and of the contiguous zone which are specified in this Act constitute the minimum limit of the aspirations of the Dominican Republic and, accordingly, do not represent an immutable position with respect to any progressive development of positive international law that may hereafter affect the regime of the sea.

12. Ecuador

a. Note. The Chile-Ecuador-Peru claim to a 200 mile maritime zone for exclusive exploitation of fisheries, and related developments, together with the documents, are given in Section II, D, supra. The national legislation of Ecuador on this subject is complex. Decree No. 607 of 29 August 1934 claimed 6 miles for fishing purposes off the coasts of Ecuador and 15 miles off the Colon Archipelago. Presidential Decree No. 80 of 2 February 1938 claimed territorial waters of 15 miles for fishing purposes off both coasts. U. N. Leg. Series I, (1951), page 68. Article 626 of the Civil Code, 1950, claimed one marine league for territorial waters, and four marine leagues for security and customs. This in effect was a reenactment of Article 582 of the Civil Code, 1857, printed in Ibid., page 67. The Congressional Decree of 6 November 1950, promulgated 21 February 1951, is the basic legislation on the continental shelf. Its provisions on the extent of territorial waters are, by virtue of Article 4 of the Decree, superseded by Ecuador's ratification, 13 December 1954, of the Chile-Ecuador-Peru Declaration of 1952 on the Maritime Zone, claiming 200 miles. The English translation of this Decree, printed below, is taken from U. N. Leg. Series I, (1951), Add. 1 of July 1952. Another English translation, together with the United Kingdom
Protest Note of 14 September 1951, may be found in I.C.J., Pleadings, 1951, U.K.-Norway, IV, pages 587–590. In Ibid., IV, page 589, there appears an English translation of Articles 1 and 2 of Presidential Decree No. 003 of 22 February 1951 approving the Maritime Hunting and Fishing Law. More extensive excerpts from this Decree are translated into French in Ibid., III, page 679. The United States Protest Note of 7 June 1951 may be found in Ibid., IV, page 603. See, also, Chile, supra, for text of representative Protest Note from the United States, and text of a Protest Note from Sweden. Sweden sent an identical Note to Ecuador. A Law of 20 August 1952 is stated in C.I.J.–24 (English) of the Pan American Union, page 28, to have reaffirmed the Decree of 21 February 1951, supra, with respect to territorial waters, which was, of course, superseded by the 1952 Tripartite Declaration on the Maritime Zone, supra. Decree No. 0160 of 29 January 1952, Decree No. 1376 of 15 July 1952, Decree No. 950-d of 6 August 1953, Decree No. 995-A of 29 April 1955, and Decree No. 1085 of 14 May 1955, contain detailed provisions for the regulation of fishing pursuant to the national legislation and international treaties, supra. The last two Decrees referred to authorize fishing by foreign vessels, having permits and licenses, within the 200 mile zone, except for a defined zone of 1,000 metres; prohibit Ecuadorian vessels, other than local fishermen, from bait-fishing within defined zones of coastal fishing villages; and provide that the permission to foreign vessels does not include whaling, which shall be governed by the Chile-Ecuador-Peru agreements.

A Conference on United States-Ecuadorean Fishery Relations was held in Quito in the spring of 1953. The Final Act and Proceedings are contained in an unnumbered document in the files of the Department of State. The problem of innocent passage for fishing vessels discussed at this Conference is reviewed in a Note by Selak, 48 A.J.I.L. (1954), page 627. Comments by Ecuador on the draft articles on the continental shelf of the International Law Commission appear in A/2456, page 49.

b. CONGRESSIONAL DEGREE CONCERNING THE CONTINENTAL SHELF, 21 FEBRUARY 1951. REGISTRO OFICIAL: ORGANO DEL GOBIERNO DEL ECUADOR, 3RD YEAR, NO. 756 (6 MARCH 1951), P. 6219.6

THE CONGRESS OF THE REPUBLIC OF ECUADOR

CONSIDERING:

That there is an urgent need to define precisely the extent of the territorial sea under the jurisdiction of Ecuador;

That the American Community of Nations has adopted the resolutions on territorial waters passed at the first and second meetings of the Ministers of Foreign Affairs of the American Republics, held respectively at Panama and Havana in 1939 and 1940, recommending that the American States should embody in their domestic legislation the rules and principles contained in the said declarations;

6 Translation by the Secretariat of the United Nations.
That military progress has led nations to extend the limit of their jurisdiction over their territorial waters;

HEREBY DECREES as follows:

ARTICLE 1. The continental platform or shelf contiguous to the coasts of Ecuador, and all or any part of the wealth it contains, belong to the State, which shall exercise the right of use and control to the extent necessary to ensure the conservation of the said property and the control and protection of the fisheries appertaining thereto.

ARTICLE 2. All submerged land contiguous to the continental territory of Ecuador where the depth of the superjacent waters does not exceed two hundred metres shall be deemed to constitute the Ecuadorean continental shelf.

ARTICLE 3. The territorial sea under national dominion shall extend for a minimum distance of twelve sea miles of twenty to the degree, measured from the points of the Ecuadorean coast projecting farthest into the Pacific Ocean, together with all internal waters of the gulfs, bays, straits and channels included within a line joining those points.

The internal sea lying within a perimeter of twelve sea miles measured from the most salient points of the outermost islands in the Galapagos Archipelago is also territorial sea and subject to the provisions of article 1 of this Decree.

ARTICLE 4. If under any international treaty or convention, such as the Treaty of Mutual Assistance, the areas allotted for maritime policing or protection are greater than those established in this Decree, the provisions of such agreement shall prevail and shall be enforced as part of this Decree to the extent laid down in the agreement.

ARTICLE 5. All contrary provisions of the Civil Code, of the Maritime Police Code and of any other law are hereby amended so as to conform to the present Decree, which shall enter into force from the date of its publication in the Registro Oficial.

13. Egypt

a. Note. By Royal Decree of 15 January 1951, effective 18 January 1951, concerning the territorial waters of the Kingdom, Egypt made extensive claims to internal and territorial waters. An English translation of the Decree is printed in I. C. J., Pleadings, 1951, U. K.-Norway, III, page 676. The text of the Decree, reprinted below, is taken from that source. Articles 5 and 9 are reprinted in English in U. N. Leg. Series I (1951), page 307. Protest Notes from the United Kingdom and the United States, dated 28 May and 4 June 1951, respectively, are printed in I. C. J., Pleadings, 1951, U. K.-Norway, IV, pages 578 and 603. Egyptian comments to the International Law
Commission on the draft articles concerning the continental shelf are in A/2456, page 50, and on territorial waters, in A/2934, page 26.

A comment on the 1955 International Law Commission Report and the Egyptian position may be found in 11 Revue Egyptienne de Droit International 190 (1955), with a map of the Egyptian coastline at page 206 thereof. See, also, J. Y. Brinton, "Territorial sea and the continental shelf," 8 Ibid. 103 (1952); 7 Ibid. 91 (1951) for texts of United Kingdom and United States Protests to Egypt; and 6 Ibid. 175 (1950) for text of translation of the Royal Decree of 15 January 1951.

* * * * * *

b. ROYAL DECREE CONCERNING THE TERRITORIAL WATERS OF THE KINGDOM OF EGYPT, 15 JANUARY 1951

WE, FAROUK, IST, KING OF EGYPT,

On the proposition of the Minister of War and Marine and with approbation of our Council of Ministers;

HEREBY DECREE ASfollows:

ARTICLE 1. For the purpose of this decree,

(a) The term "nautical mile" is the equivalent of 1,852 (one thousand, eight hundred and fifty two) metres;

(b) The term "bay" includes any inlet, lagoon or other arm of the sea;

(c) The term "island" includes any islet, reef, rock, bar or permanent artificial structure not submerged at lowest low tide;

(d) The term "shoal" denotes an area covered by shallow water, a part of which is not submerged at lowest low tide; and

(e) The term "coast" refers to the coasts of the Mediterranean Sea, the Red Sea, the Gulf of Suez and the Gulf of Aqaba.

ARTICLE 2. The territorial waters of the Kingdom of Egypt as well as the air space above and the soil and subsoil beneath them, are under the sovereignty of the Kingdom, subject to the provisions of international law as to the innocent passage of vessels of other nations through the coastal sea.

ARTICLE 3. The territorial waters of the Kingdom of Egypt embrace both the inland waters and the coastal sea of the Kingdom.

ARTICLE 4. The inland waters of the Kingdom include:

(a) the waters of the bays along the coasts of the Kingdom of Egypt;

(b) the waters above and landward from any shoal not more than twelve nautical miles from the mainland or from an Egyptian island;

(c) the waters between the mainland and an Egyptian island not more than twelve nautical miles from the mainland; and

(d) the waters between Egyptian islands not farther apart than twelve nautical miles.
ARTICLE 5. The coastal sea of the Kingdom lies outside the inland waters of the Kingdom and extends seaward for a distance of six nautical miles.

ARTICLE 6. The following are established as the base-lines from which the coastal sea of the Kingdom of Egypt is measured:
(a) where the shore of the mainland or an island is fully exposed to the open sea, the lowest low-water mark on the shore;
(b) where a bay confronts the open sea, lines drawn from headland to headland across the mouth of the bay;
(c) where a shoal is situated not more than twelve nautical miles from the mainland or from an Egyptian island, lines drawn from the mainland of the island and along the outer edge of the shoal;
(d) where a port or a harbour confronts the open sea, lines drawn along the seaward side of the outermost works of the port or a harbour and between such works;
(e) where an island is more than twelve nautical miles from the mainland, lines drawn from the mainland and along the outer shores of the islands;
(f) where there is an island group which may be connected with lines not more than twelve nautical miles long, of which the island nearest to the mainland is not more than twelve nautical miles from the mainland, lines drawn from the mainland and along the outer shores of all the islands of the group if the islands form a chain or along the outer shores of the outermost islands of the group if the islands do not form a chain; and
(g) where there is an island group which may be connected by lines not more than twelve nautical miles long, of which the island nearest to the mainland is more than twelve nautical miles from the mainland, lines drawn along the outer shores of all the islands if the group of the islands form a chain, or along the outer shores of the outermost islands of the group if the islands do not form a chain.

ARTICLE 7. If the measurement of the territorial waters in accordance with the provisions of this decree leaves an area of high sea wholly surrounded by territorial waters and extending not more than twelve nautical miles in any direction, such area shall form part of the territorial waters. The same rule shall apply to a pronounced pocket of high sea which may be wholly enclosed by drawing a single straight line not more than twelve nautical miles long.

ARTICLE 8. If the inland waters of the Kingdom of Egypt, or if its coastal sea, should be overlapped by the waters of another State, boundaries will be determined in agreement with the State
concerned in accordance with the principles of international law or by mutual agreement.

ARTICLE 9. With a view to assuring compliance with the laws and regulations relating to security, navigation, fiscal and sanitary matters, maritime surveillance may be exercised in a contiguous zone outside the coastal sea, extending for a further distance of six nautical miles and measured from the base-lines of the coastal sea; this provision shall not be deemed to apply to the rights of the Kingdom of Egypt with respect to fishing.

ARTICLE 10. Our Ministers are charged, each in so far as he is concerned therein, with the execution of this Decree and it will come into effect as from the date of its publication in the Official Journal.

(Certified translation from the original published in Arabic in the Official Journal No. 6 dated 18th January, 1951, An. 122.)

14. El Salvador

a. Note. Article 7 of the Political Constitution of 7 September 1950, effective 14 September 1950, follows Chile and Peru in claiming 200 miles of sea as part of its territory. Article 7 and the United States Protest Note of 12 December 1950 are printed in U. N. Leg. Series I, (1951), page 300. Earlier legislation may be found, Ibid., page 71. Article 7 is also printed in I. C. J., Pleadings, 1951, U. K.-Norway, IV, page 596. The United Kingdom Protest Note of 12 February 1950 is printed, Ibid., IV, page 596. The United States Note is also printed in Ibid., IV, page 600, and was previously published as Department of State Press Release No. 1256, 22 December 1950. Decree No. 1961 of 25 October 1955 defines the coastal sea as 12 miles and restricts fishing therein to nationals of El Salvador, and to corporations of El Salvador of which at least 50% is owned by nationals of El Salvador. The English translation of Article 7, printed below, is taken from U. N. Leg. Series I (1951), page 300. Comments by El Salvador on the draft articles on territorial waters of the International Law Commission may be found in A/2934, page 27.

* * *  * * * * *

b. ARTICLE 7 OF THE POLITICAL CONSTITUTION OF 7 SEPTEMBER 1950

ARTICLE 7. The territory of the Republic within its present boundaries is irreducible. It includes the adjacent seas to a distance of two hundred sea miles from low water line and the corresponding air space, subsoil and continental shelf.

The provisions of the foregoing paragraph shall not affect the freedom of navigation in accordance with the principles recognized under International Law.

The Gulf of Fonseca is a historic bay subject to a special regime.

15. Ethiopia

Gazette of 25 September 1953, claimed for Ethiopia a belt of territorial waters twelve miles in width. Excerpts from Section B, I, 6(f) of this Proclamation are reprinted below. The document was translated by the United Nations Secretariat. Also reprinted below is a Protest Note from Sweden to Ethiopia concerning this claim.

b. MARITIME PROCLAMATION, NO. 137 OF 1953

"B. MERCANTILE MARINE PROVISIONS.

I. DEFINITIONS

6. For the purposes of this Proclamation and the regulations and instructions to be issued in conformity therewith, * * *

(f) The territorial waters of Our Empire are defined as extending from the extremity of sea-board at maximum annual high tide of the Ethiopian continental coast and of the coasts of Ethiopian islands, in parallel line on the entire sea-board and to an outward distance of twelve nautical miles, * * * (Exception of Dolilac archipelago) and that in the case of pearl and other sedentary fisheries the seaward limit of the territorial waters shall extend to the limits of the said fisheries. * * *

* * * * * * * *

c. SWEDISH NOTE OF PROTEST TO ETHIOPIA OF FEBRUARY 11, 1954, REGARDING THE EXTENSION OF TERRITORIAL WATERS ALONG THE COAST OF ERITREA. FROM UTRIKESFRÅGOR 1954, CH. X, PUBLISHED BY THE SWEDISH ROYAL FOREIGN OFFICE

By reason of the fact that the Ethiopian Government has by Maritime Proclamation of September 25, 1953, Paragraph 6, proclaimed a maritime belt 12 nautical miles in width, the Swedish Government deems itself obliged to point out that in its opinion this extension of territorial waters in comparison with the limit hitherto in force constitutes an encroachment upon the high seas, where the citizens of every country have the right to fish and navigate without interference on the part of other countries. The Swedish Government wishes in this connection to call attention to the enclosed Swedish declaration 6 submitted to the International Conference at The Hague, 1930, for the Codification of International Law. In accordance therewith the Swedish Government reserves all rights in opposition to the extension by any country

6 Not reprinted.
of its territorial waters beyond the limit earlier in force for its coastline.

16. Guatemala

a. Note. English translations of Guatemalan legislation of 1939 and 1941, defining territorial waters as extending twelve maritime miles from the low-water mark, are contained in *U. N. Leg. Series I* (1951), page 79. A Petroleum Law, Legislative Decree No. 649 of 30 August 1949, claimed petroleum resources to the edge of the continental shelf but made no claim to the waters above the shelf. An English translation of Articles 1, 29, and 36 appears in *Ibid.*, page 10.

Article 399, Civil Code, Act No. 1932 of 29 October 1947, declares the maritime zone on the coasts to be part of the public domain to the extent and with the effects specified by international law. Chapter 1, Article 1, of the Civil Aviation Law, Act No. 563 of 28 October 1948, contains a claim to exclusive sovereignty of the air space over the territorial sea. Article 3 of the Constitution of Guatemala of 1 March 1956, as translated by the United Nations Secretariat, is reprinted below. Article 214 of the Constitution includes the following as "the property of the Nation": * * * "4. The maritime zone of the territory of the Republic, the continental shelf, the air space and the stratosphere, to the extent and in the manner specified by law."

Article 33 of the Political Statute of 10 August 1954 declares the resources of the subsoil to belong to the Nation. The Petroleum Code, Decree No. 345 of 7 July 1955, in Article 1, states, in part: "All of the natural deposits or occurrences of petroleum that are located within the territorial or maritime limits of the Republic or within the outer limit of the continental platform belong to the Nation."

* * * * * * * *

b. ARTICLE 3 OF THE CONSTITUTION OF THE REPUBLIC OF GUATEMALA OF 1 MARCH 1956

"ARTICLE 3. The public domain shall include all Guatemalan territory, soil, subsoil, territorial sea, continental shelf and air space and shall extend to the natural resources and wealth existing therein, without prejudice to free maritime and air navigation in accordance with the law and the provisions of international treaties and conventions."

17. Honduras

a. Note. Honduras in recent years has amended its Political Constitution, Agrarian Law, and Civil Code, and has enacted legislation concerning the continental shelf and territorial waters. Congressional Decree No. 102 of 7 March 1950, amending the Political Constitution, as reprinted below, is translated by the United Nations Secretariat and printed in *U. N. Leg. Series I*, (1951), page 11. This Decree was ratified by Decree No. 48 of 1 February 1951. Another English translation of Decree No. 102 appears in *I. C. J., Pleadings, 1951, U. K.-Norway*, IV, page 581. Article 153 of the Constitution of 28 March 1936, amended by Decree No. 102, *supra*, claimed 12 kilometers from low-water mark as territorial sea. It is printed in *U. N. Leg.*
Series I (1951), page 80, and a United Kingdom Protest Note against this 1936 Article appears in I. C. J., Pleadings, 1951, U. K.-Norway, II, page 743. Congressional Decree No. 103 of 7 March 1950, amending the Agrarian Law, as translated by the United Nations Secretariat in U. N. Leg. Series I, (1951), page 12, provides in Article 1, (3): “Its submarine platform or continental and insular shelf and the waters which cover it, in both the Atlantic and Pacific Oceans, at whatever depth it may be found and whatever its extent may be” [belong to Honduras]. (Editorial insertion.) Decree No. 103 appears also in English translation in I. C. J., Pleadings, 1951, U. K.-Norway, IV, page 581.

Congressional Decree No. 104, amending the Civil Code, of 7 March 1950, as translated by the United Nations Secretariat in U. N. Leg. Series I, (1951), page 301, provides in part, as follows, in amended Article 619, second paragraph: “* * * Ownership of all natural wealth, existing, or that may exist, in its submarine platform or continental or insular shelf, in its lower strata and in the sea space included within the vertical planes rising from its limits, shall also be vested in the State. * * *” Article 621, as amended, Ibid., provides: “The adjacent waters, to a distance of 12 kilometers from the low water mark, shall be territorial waters and national property; but the sovereignty of the State shall extend to the submarine platform or continental and insular shelf and the overlying waters, at whatever depth it may be encountered and whatever may be its extent, without prejudice to the right of free navigation in accordance with international law.” Article 621 prior to its amendment is printed, Ibid., page 80. Another English translation of Decree No. 104 appears in I. C. J., Pleadings, 1951, U. K.-Norway, IV, page 582.

Congressional Decree No. 25 of 17 January 1951, approving and incorporating Presidential Decree No. 96 of 28 January 1950, as reprinted below, is translated by the United Nations Secretariat and printed in U. N. Leg. Series I, (1951), page 302. A French translation of Decree No. 96 appears in I. C. J., Pleadings, 1951, U. K.-Norway, III, page 694. All these recent Honduran Decrees have been protested by the United Kingdom in Notes of 23 April and 10 September 1951, and are printed in Ibid., IV, pages 583 and 585. No Note of Protest, if any, by the United States has been found.

* * * * * * *


ARTICLE 1. The name of the single chapter of title 1, the name of title 2, and articles 4 and 153 of the Political Constitution are amended, and shall read as follows:

(a) Name of the single chapter of title 1: “Concerning the Nation and Sovereignty.”

(b) Name of title 2. “Concerning Nationality and Citizenship.”

(c) ARTICLE 4. “The limits of Honduras and its territorial division shall be determined by law. The submarine platform or

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7 Translation by the Secretariat of the United Nations.
continental and insular shelf, and the waters which cover it, in both the Atlantic and Pacific Oceans, at whatever depth it may be found and whatever its extent may be, forms a part of the national territory.”

(d) Article 153. “The following belong to the State: Full, inalienable, and imprescriptible dominion of the waters of the territorial seas to the extent of twelve kilometres measured from the low-water mark, and full, inalienable, and imprescriptible dominion of its beaches, and of its lakes, lagoons, estuaries, rivers, and rivulets which run continuously, with the exception of springs which rise and terminate within private property; also the dominion, likewise full, inalienable, and imprescriptible, over all the resources which exist or may exist in its submarine platform or continental and insular shelf, in its lower strata, and in the area of the sea included within vertical planes constructed on its boundaries.”

Article 2. The present decree shall be constitutionally ratified by the next legislature and shall enter into force immediately after its publication in La Gaceta.

Note. Prior to the change introduced by this decree, article 153 of the Constitution of Honduras, of 28 March 1936, provided only that “the State has full dominion, inalienable and imprescriptible, over the waters of the territorial seas to a distance of twelve kilometres measured from the lower-water mark.” Decretos de la Asamblea Nacional Constituyente, 1936, p. 39.

* * * * *


The National Congress Decrees as follows:

Single Article.—Decree No. 96, issued by the President of the Republic in the Council of Ministers on 28 January 1950, is hereby approved in whole and in every part, as follows:

“Decree No. 96.—By Juan Manuel Galvez, Constitutional President of the Republic of Honduras.

“WHEREAS scientific survey has shown that the land mass of the mainland and islands continues into the sea for varying distances and at varying depths, and that such continuation, known as the submarine platform or the continental and insular shelf, forms with the land mass a single morphological and geological unit;

8 Translation by the Secretariat of the United Nations.
"WHEREAS legal doctrine has acknowledged and international law has declared that the said shelf belongs lawfully to the riparian States, which are entitled to proclaim their sovereignty over it and over the waters covering it, as is shown by the statements of the President of the United States of America on 28 September 1945, of the President of Mexico on 29 October 1945, of the President of the Argentine Republic on 11 October 1946, of the President of the Republic of Chile on 23 June 1947, of the President of the Republic of Peru on 1 August 1947 and by the Legislative Decree of the Founding Committee (Junta Fundadora) of the Second Republic of Costa Rica on 27 July 1948;

"WHEREAS the said shelf contains natural riches of inestimable value, such as vegetable plankton, the staple food of marine life, by reason whereof the overlying waters are an inexhaustible source of fish; marine algae producing foodstuffs, fertilizer, potash, bromine, iodine, textiles, etc.; petroleum, and a great variety of other wealth which must be protected as part of the national property;

"WHEREAS for the reasons aforesaid an immediate statement is required setting forth in clear and precise terms the nation's right to the continental shelf and the waters covering it in both the Atlantic and the Pacific Oceans;

"NOW THEREFORE the President, in the Council of Ministers,

DECREES AS FOLLOWS:

"ARTICLE 1. It is hereby declared that the sovereignty of Honduras extends to the continental shelf of the national territory, both of the mainland and of the islands, and to the waters covering it, at whatever depth it lies and whatever its extent, and that the nation has full, inalienable and imprescriptible domain over all wealth which exists or may exist in it, in its lower strata or in the area of water bounded by the vertical plane passing through its borders.

"ARTICLE 2. The zone of protection of hunting, fishing and exploitation of the mainland and island waters falling by virtue of this Decree within the State's jurisdiction shall be delimited in accordance with this declaration of sovereignty whenever the Government shall see
fit, and such delimitation shall be ratified, extended or amended as the national interest may require.

"ARTICLE 3. The protection and supervision of the State is hereby declared to extend in the Atlantic Ocean over all waters lying within the perimeter formed by the coast of the mainland of Honduras and a mathematical parallel drawn at sea 200 sea miles therefrom. With regard to the islands of Honduras in the Atlantic, such delimitation shall enclose the zone of sea contiguous to their coasts and extending for two hundred sea miles from every point thereon.

"ARTICLE 4. Subject to reciprocity, this declaration does not deny similar lawful rights of other States, nor affect the freedom of navigation recognized in international law, nor derogate from the rights of sovereignty and domain held by the State of Honduras over its territorial waters."

18. Iceland

a. Note. Iceland, like Japan, is a country whose economy is largely dependent on fisheries. Consequently, her legislation is of particular interest. In Iceland’s comments to the International Law Commission, A/CN.4/99/Add. 2, page 8, it is stated that the fishery limits for Iceland between 1662 and 1859 were 16 miles and that all bays were closed to foreign fishing. Subsequently, with a breakdown of enforcement, the Danish and British Governments, in the 1901 Agreement, specified 3 miles for fisheries and 10 miles for bays. This 1901 Agreement was terminated in 1951 by Iceland in accordance with due notice. The United Kingdom-Denmark Exchanges of Notes, 1955, amending the 1901 Agreement, is printed, supra, Section IV, A, 2.

Law No. 44, concerning the scientific conservation of the continental shelf fisheries, 5 April 1948, is printed in U. N. Leg. Series I, (1951), page 12, and another English translation appears in I.C.J., Pleadings, 1951, U.K.-Norway, III, page 696. Minor amendments to this Law were made by Provisional Act No. 37 of 19 March 1952. The law as revised is given in English in A/CN.4/55/Add. 1/Rev. 1, page 6, together with the Reasons for the Law of 5 April 1948 as submitted to the Icelandic Parliament. Articles 1, 2 and 4 of this Law, and excerpts from the Reasons, as printed below, are taken from this source.

Pursuant to Article 1 of this Law, Regulations have been issued with respect to conservation zones, and the use of base lines across the opening of bays and from outermost rocks, similar to the Norwegian “system” litigated in the Fisheries Case, (United Kingdom v. Norway), supra, Section I, A; I.C.J., Reports (1951), page 116. Regulations of 22 April 1950, for the North Coast of Iceland, were superseded by virtue of Article 6 of the Regulations of 19 March 1952, covering Iceland as a whole. The text of the 1950 Regulations is given in English translation in A/CN.4/55/Add. 1/Rev. 1, page 10, and in I.C.J., Pleadings, 1951, U.K.-Norway, III, page 700; and a memorandum by the Icelandic Government on the 1950 Regulations in Ibid., III, page 701. The
Regulations of 19 March 1952, effective 15 May 1952, are also based on Law No. 44, supra, and follow the same base-line system. A complete English translation of the 1952 Regulations may be found in A/CN.4/55/Add. 1/Rev. 1, page 14, with map, page 17. Articles 1 and 2 of the 1952 Regulations are printed below from this source. The same comments, texts, and Reasons are also printed in A/2456, page 52. Further comments by Iceland are contained in A/2934, page 28, and A/CN.4/99/Add. 2, page 4.

United Kingdom Protest Notes of 6 July 1950, and 23 May 1951, to Iceland concerning the 1950 Regulations, are printed in I.C.J., Pleadings, 1951, U.K.-Norway, IV, pages 576 and 577. Correspondence between Iceland and the Netherlands on the same subject is in Ibid., IV, pages 606 and 608. The Netherlands Note is also in Ibid., IV, page 402. A Note of Protest from Belgium to Iceland, in French, is in Ibid., IV, page 401. A subsequent Note from the United Kingdom to Iceland of 2 May 1952 may be found in I.C.L.Q. (1952), page 352. A letter to the Editor from the British Foreign Office, 3 July 1956, stated that there have been no recent fishery arrangements between the two governments. See comments, D.J., "Icelandic Fish Limits," 1 I.C.L.Q. 71, 350 (1952). For a recent summary of the Icelandic viewpoint, particularly with respect to its dispute with the United Kingdom, see "The Icelandic Efforts for Fisheries Conservation", Additional Memorandum submitted to the Council of Europe by the Government of Iceland, October 1955.

b. LAW NO. 44 OF 5 APRIL 1948 9 CONCERNING THE SCIENTIFIC CONSERVATION OF THE CONTINENTAL SHELF FISHERIES, AS AMENDED 10; AND STATEMENT OF REASONS (EXCERPTS).

ARTICLE 1. The Ministry of Fisheries shall issue regulations establishing explicitly bounded conservation zones within the limits of the continental shelf of Iceland; wherein all fisheries shall be subject to Icelandic rules and control; Provided that the conservation measures now in effect shall in no way be reduced. The Ministry shall further issue the necessary regulations for the protection of the fishing grounds within the said zones. The Fiskifelag Islands (Fisheries Society) and the Atvinnudeild Háskóla Islands (University of Iceland Industrial Research Laboratories) shall be consulted prior to the promulgation of the said regulations.

The regulations shall be revised in the light of scientific research.

ARTICLE 2. The regulations promulgated under article 1 of the present law shall be enforced only to the extent compatible with agreements with other countries to which Iceland is or may become a party.

ARTICLE 4. The Ministry of Fisheries shall to the extent prac-

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9 Stjórnartidindi, 1948, A4, p. 147
10 By Provisional Act No. 37 of 19 March 1952 (Stjórnartidindi, 1952, A2.)
ticable, participate in international scientific research in the interest of fisheries conservation.

* * *

REASONS FOR THE LAW OF 5 APRIL 1948 (submitted to the Icelandic Parliament):

It is well known that the economy of Iceland depends almost entirely on fishing in the vicinity of its coasts. For this reason, the population of Iceland has followed the progressive impoverishment of fishing grounds with anxiety. Formerly, when fishing equipment was far less efficient than it is today, the question appeared in a different light, and the right of providing for exclusive rights of fishing by Iceland itself in the vicinity of her coasts extended much further than is admitted by the practice generally adopted since 1900. It seems obvious, however, that measures to protect fisheries ought to be extended in proportion to the growing efficiency of fishing equipment.

Most coastal States which engage in fishing have long recognized the need to take positive steps to prevent over-exploitation resulting in a complete exhaustion of fishing grounds. Nevertheless, there is no agreement on the manner in which such steps should be taken. The States concerned may be divided into two categories. On the one hand, there are the countries whose interest in fishing in the vicinity of foreign coasts is greater than their interest in fishing in the vicinity of their own coasts. While recognizing that it is impossible not to take steps to mitigate the total exhaustion of fishing grounds, these States are nevertheless generally of opinion that unilateral regulations by littoral States must be limited as far as possible. They have also insisted vigorously that such measures can only be taken by virtue of international agreements.

On the other hand, there are the countries which engage in fishing mainly in the vicinity of their own coasts. The latter have recognized to a growing extent that the responsibility of ensuring the protection of fishing grounds in accordance with the findings of scientific research is, above all, that of the littoral State. For this reason, several countries belonging to the latter category have, each for its own purposes, made legislative provision to this end the more so as international negotiations undertaken with a view to settling these matters have not been crowned with success, except in the rather rare cases where neighbouring nations were concerned with the defence of common interests. There is no doubt that measures of protection and prohibition can be taken better and more naturally by means of international agreements.
in relation to the open sea, i.e., in relation to the great oceans. But different considerations apply to waters in the vicinity of coasts.

In so far as the sovereignty of States over fishing grounds is concerned, two methods have been adopted. Certain States have proceeded to a determination of their territorial waters, especially for fishing purposes. Others on the other hand, have left the question of the territorial waters in abeyance and have contented themselves with asserting their exclusive right over fisheries, independently of territorial waters. Of these two methods, the second seems to be the more natural, having regard to the fact that certain considerations arising from the concept of “territorial waters” have no bearing upon the question of an exclusive right to fishing, and that there are therefore serious drawbacks in considering the two questions together.

When States established their sovereignty over fishing zones in the vicinity of their coasts they adopted greatly varying limits; in the majority of cases, they adopted a specified number of nautical miles: three miles, four miles, six miles or twelve kilometres, etc. It would appear, however, to be more natural to follow the example of those States which have determined the limit of their fisheries jurisdiction in accordance with the contour of the continental shelf along their coasts. The continental shelf of Iceland is very clearly distinguishable, and it is therefore natural to take it as a basis. This is the reason why this solution has been adopted in the present draft law.

COMMENTARY ON ARTICLE 1. Two kinds of provisions are concerned: on the one hand, the delimitation of the waters within which the measures of protection and prohibition of fishing should be applied, i.e., the waters which are deemed not to extend beyond the continental shelf; and, on the other hand, the measures of protection and prohibition of fishing which should be applied within these waters. In so far as the enactment of measures to assure the protection of stocks of fish is concerned, the views of marine biologists will have to be taken into consideration, not only as regards fishing grounds and methods of fishing, but also as regards the Seasons during which fishing shall be open, and the quantities of fish which may be caught.

At present, the limit of the continental shelf may be considered as being established precisely at a depth of 100 fathoms. It will, however, be necessary to carry out the most careful investigations in order to establish whether this limit should be determined at a different depth.
COMMENTARY ON ARTICLE 2. The provisions of this article have a bearing upon the following agreements: the Agreement between Denmark and the United Kingdom, of 24 June 1901, and the International Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish, of 23 March 1937. Should the provisions contained in this draft law appear to be incompatible with these agreements, they would not, of course, be applied against the States signatories to the said agreements, as long as these agreements remain in force.

COMMENTARY ON ARTICLE 4. On 17 August 1946, the International Council for the Exploration of the Sea recommended that measures be taken to prohibit fishing in the Faxafloi. It goes without saying that Iceland will take part, to the fullest possible extent, in any initiative of this kind in relation to her own coast as well as others. She has already given proof of her interest in these problems, in particular by taking part in international oceanographic research.

c. ARTICLES 1 AND 2 OF THE REGULATIONS OF 19 MARCH 1952 CONCERNING CONSERVATION OF FISHERIES OFF THE ICELANDIC COASTS

ARTICLE 1

All trawling and Danish seine-netting is prohibited off the Icelandic coasts inside a line which is drawn four nautical miles from the outermost points of the coasts, islands and rocks and across the opening of bays.

The line shall be drawn by drawing straight base lines between the following points, and then a parallel line four nautical miles seawards:

1. Horn .......................... 66°27'4 N., 22° 24'5 W.
2. frabooi .................................. 66°19'8 N., 22° 06'5 W.
3. Drangaker .................................. 66°14'3 N., 21° 48'6 W.
4. Selsker .................................. 66°07'3 N., 21° 31'2 W.
5. Asbúrarif .................................. 66°08'1 N., 20° 11'2 W.
6. Siglunes .................................. 66°11'9 N., 18° 50'1 W.
7. Flatay .................................. 66°10'3 N., 17° 50'5 W.
8. Lágey .................................. 66°17'8 N., 17° 07'0 W.
9. Rauoinúpur .................................. 66°30'7 N., 16° 32'5 W.
10. Rifstangi .................................. 66°32'3 N., 16° 11'9 W.
11. Hraunhafnartangi .................................. 66°32'3 N., 16° 01'6 W.
12. Langanes .................................. 66°22'6 N., 14° 32'0 W.
13. Skálatalóarsker .................................. 65°59'7 N., 14° 37'5 W.
14. Bjarnarey .................................. 65°47'1 N., 14° 18'3 W.
15. Almenningsfles .................................. 65°33'1 N., 13° 40'6 W.
<table>
<thead>
<tr>
<th>Number</th>
<th>Location</th>
<th>Coordinates</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Glettinganes</td>
<td>65°30′6″ N., 13° 26′4″ W.</td>
</tr>
<tr>
<td>17</td>
<td>Norofjaroarhorn</td>
<td>65°10′0″ N., 13° 31′0″ W.</td>
</tr>
<tr>
<td>18</td>
<td>Gerpir</td>
<td>65°04′7″ N., 13° 29′8″ W.</td>
</tr>
<tr>
<td>19</td>
<td>Hólmur</td>
<td>64°58′9″ N., 13° 30′7″ W.</td>
</tr>
<tr>
<td>20</td>
<td>Setusker</td>
<td>64°57′7″ N., 13° 31′6″ W.</td>
</tr>
<tr>
<td>21</td>
<td>Pursasker</td>
<td>64°54′1″ N., 13° 36′9″ W.</td>
</tr>
<tr>
<td>22</td>
<td>Yztibooi</td>
<td>64°35′2″ N., 14° 01′6″ W.</td>
</tr>
<tr>
<td>23</td>
<td>Selsker</td>
<td>64°32′8″ N., 14° 07′1″ W.</td>
</tr>
<tr>
<td>24</td>
<td>Hvíttingar</td>
<td>64°23′8″ N., 14° 28′1″ W.</td>
</tr>
<tr>
<td>25</td>
<td>Stokksnes</td>
<td>64°14′1″ N., 15° 58′8″ W.</td>
</tr>
<tr>
<td>26</td>
<td>Hrollaugseyjar</td>
<td>63°47′8″ N., 16° 38′6″ W.</td>
</tr>
<tr>
<td>27</td>
<td>Hvalsiki</td>
<td>63°44′1″ N., 17° 33′7″ W.</td>
</tr>
<tr>
<td>28</td>
<td>Ingolfshöfði</td>
<td>63°47′8″ N., 16° 38′6″ W.</td>
</tr>
<tr>
<td>29</td>
<td>Meoallandssandur I</td>
<td>63°32′4″ N., 17° 56′0″ W.</td>
</tr>
<tr>
<td>30</td>
<td>Meoallandssandur II</td>
<td>63°30′6″ N., 18° 00′0″ W.</td>
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<tr>
<td>31</td>
<td>Kötltutangi</td>
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<tr>
<td>32</td>
<td>Lundadrangur</td>
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<tr>
<td>33</td>
<td>Geirfuglasker</td>
<td>63°19′0″ N., 20° 30′1″ W.</td>
</tr>
<tr>
<td>34</td>
<td>Einidrangur</td>
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</tr>
<tr>
<td>35</td>
<td>Selvogur</td>
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<td>Höpsnes</td>
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<tr>
<td>37</td>
<td>Eldeyjardrangur</td>
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<tr>
<td>38</td>
<td>Gáluvíkurangi</td>
<td>64°44′9″ N., 23° 55′2″ W.</td>
</tr>
<tr>
<td>39</td>
<td>Hraunvör</td>
<td>64°49′6″ N., 24° 01′0″ W.</td>
</tr>
<tr>
<td>40</td>
<td>Skálasnagi</td>
<td>64°51′2″ N., 24° 02′7″ W.</td>
</tr>
<tr>
<td>41</td>
<td>Bjargtangar</td>
<td>65°30′2″ N., 24° 32′3″ W.</td>
</tr>
<tr>
<td>42</td>
<td>Kópanes</td>
<td>65°48′3″ N., 24° 06′3″ W.</td>
</tr>
<tr>
<td>43</td>
<td>Baroi</td>
<td>66°03′7″ N., 22° 47′6″ W.</td>
</tr>
<tr>
<td>44</td>
<td>Straumnes</td>
<td>66°25′7″ N., 23° 08′5″ W.</td>
</tr>
<tr>
<td>45</td>
<td>Kógur</td>
<td>66°28′3″ N., 22° 55′8″ W.</td>
</tr>
<tr>
<td>46</td>
<td>Horn</td>
<td>66°27′9″ N., 22° 28′5″ W.</td>
</tr>
</tbody>
</table>

Also, a four-mile zone shall be drawn around the following:

<table>
<thead>
<tr>
<th>Number</th>
<th>Location</th>
<th>Coordinates</th>
</tr>
</thead>
<tbody>
<tr>
<td>49</td>
<td>Kolbeinsey</td>
<td>67°07′5″ N., 18° 36′0″ W.</td>
</tr>
<tr>
<td>50</td>
<td>Hvalsbakur</td>
<td>64°35′8″ N., 13° 16′7″ W.</td>
</tr>
<tr>
<td>51</td>
<td>Geirfugladrangur</td>
<td>63°40′6″ N., 23° 17′3″ W.</td>
</tr>
</tbody>
</table>

Finally, a four-mile zone shall be drawn from the outermost points and rocks of the island of Grimsey.

**ARTICLE 2**

In the area defined in article 1 any other foreign fishing activities shall be prohibited in accordance with the provisions of Law No. 33 of 19 June 1922 concerning fishing in territorial waters.

**19. India**

a. Note. India under British rule had followed the traditional 3 mile limit for territorial waters. In A/CN.4/99, page 26, India expressed the view that the maximum breadth of the territorial sea was 12 miles and that
each state was free to fix a practical limit within the 12 miles. Furthermore, no particular geographic configuration of the coast was required as justification for this asserted freedom. A similar view was expressed in the Indian comments on the draft articles on territorial waters of the International Law Commission in A/2934, page 30. A Presidential Proclamation of 22 March 1956, reproduced below, fixed 6 nautical miles as the limit of the territorial sea.

**b. PRESIDENTIAL PROCLAMATION OF 22 MARCH 1956**

(The Gazette of India, No. 81, of 22 March 1956)

"Whereas international law has always recognized that the sovereignty of a state extends to a belt of sea adjacent to its coast;

And whereas international practice is not uniform as regards the extent of this sea-belt commonly known as the territorial waters of the State, and consequently it is necessary to make a declaration as to the extent of the territorial waters of India;

I, Rajendra Prasad, President of India, in the Seventh Year of the Republic, do hereby proclaim that, notwithstanding any rule of law or practice to the contrary which may have been observed in the past in relation to India or any part thereof, the territorial waters of India extend into the sea to a distance of six nautical miles measured from the appropriate base line."

20. Iran

a. NOTE. An Act relating to the breadth of territorial waters and to the zone of supervision of 19 July 1934 appears in English translation in U. N. Leg. Series I (1951) page 81, (Articles 1, 2 and 3 only), and in French in full in I.C.J., Pleadings, 1951, U.K.-Norway, II, page 284. In Mouton, The Continental Shelf, 1952, Articles 1 and 2 of a Bill approved by the Council of Ministers and submitted to the Majlis on 19 May 1949, is referred to on page 257 and translated on page 10. Mouton cites Volume 5, Revue Egyptienne de Droit International, Documents (Territorial Waters) (1949) for his text. The Act of 19 June 1955, printed below, is very similar to this 1949 Bill.

**b. ACT OF 19 JUNE 1955 CONCERNING THE EXPLORATION AND EXPLOITATION OF THE CONTINENTAL SHELF**

**ARTICLE 1.** As used in this Act, the Iranian term falat gharreh has the same meaning as the term "continental shelf" in English and the term plateau continental in French.

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ARTICLE 2. The sea-bed and subsoil of the submarine areas which are contiguous to the continental and insular coasts of Iran and which are situated on the continental shelf have always been and continue to be under the sovereignty of Iran.

NOTE 1. In the case of the Caspian Sea, the provisions of international law concerning inland seas shall apply.

ARTICLE 3. Where the above-mentioned continental shelf extends to the coasts of another State or adjoins the territory of a State adjacent to Iran, any disputes concerning the boundary of the continental shelf of Iran shall be settled on equitable principles, and the Government shall take the necessary measures to settle such disputes.

ARTICLE 4. This Act does not amend in any way the provisions of the Act of 24 Tir 1313 [19 July 1934] concerning the Delimitation of Territorial Waters and the Zone of Supervision and Surveillance, and that Act remains in force.

ARTICLE 5. This Act does not affect the legal status of the superjacent waters with respect to freedom of navigation and to the installation of submarine cables.

The Government may construct on the continental shelf installations necessary for the exploration and exploitation of its natural resources and may take measures necessary for the safety of such installations.

21. Israel

a. Note. Israel's legislation on territorial waters and related subjects had embodied the views of the United Kingdom as the Mandatory Power. This legislation was continued in force by Israel until recently. In a Note of 13 December 1955 from the Foreign Ministry of Israel to the United Nations Secretariat, reference is made to a Government Decision of 11 September 1955 fixing the limit of the maritime frontier at six miles. The text of the Decision is given in an official translation in A/CN.4/99/Add. 1, page 16, and reprinted below from that source. According to Ibid., pages 16–17, this Note was sent to all countries with which diplomatic relations are maintained.

b. "GOVERNMENT'S DECISION OF 24 ELUL 5715
(11 September 1955)

NOTICE ON THE MARITIME FRONTIER OF THE STATE OF ISRAEL

The maritime frontier of the State of Israel is placed at a distance of six nautical miles from the coast measured from the low-water line, and the areas of the sea between the low-water line as aforesaid and the maritime frontier, together with the air space above them, constitute the maritime areas of Israel."

* * * * * * *

c. PROCLAMATION OF 3 AUGUST 1952

WHEREAS recent scientific investigations indicate the presence of mineral wealth and other natural resources in the submarine areas contiguous to the coasts of Israel;

AND WHEREAS it is desirable to take steps to preserve these resources and to assure their availability for the purpose of future research, utilisation and development;

AND WHEREAS several other states have taken steps to exercise jurisdiction over the submarine areas contiguous to their coasts;

THEREFORE the Government of Israel hereby proclaims and publicly announces as follows:

(1) The territory of the State of Israel shall include the sea-bed and the sub-soil of the submarine areas contiguous to the coasts of Israel and outside the territorial waters to the extent that the depth of the superjacent waters admits of the exploitation of the natural resources of those areas.

(2) Nothing contained in Paragraph 1 shall affect the character as high seas of the waters as are above the said submarine areas and outside the territorial waters of Israel.

12 Av 5712 (3 August 1952).

by order of the Government
HANNAH EVEN-TOV,
Deputy Secretary to the Government.

* * * * * * *

d. SUBMARINE AREAS LAW, 5713—1953

1. (a) The territory of the State of Israel shall include the sea floor and underground of the submarine areas adjacent to the shores of Israel but outside Israel territorial waters, to the extent that the depth of the superjacent water permits the exploitation of the natural resources situate in such areas.

(b) Nothing in subsection (a) shall affect the character of the
water superjacent on the said submarine areas, and outside Israel territorial waters, as waters of the high seas.

David Ben-Gurion  
Prime Minister.

Yitzchak Ben-Zvi  
President of the State.

22. Japan

Note. Although Japan, like Iceland, supra, is a country whose economy is heavily dependent on fisheries, she has not defined the breadth of her territorial sea in her national legislation, according to a Note of 5 March 1956 to the United Nations Secretariat from the Japanese Ministry for Foreign Affairs. In that Note, it was stated: “It is, however, evident that Japan traditionally maintains that the distance of three miles is the well-recognized and firmly established principle of international law * * *.” Japan has been seriously affected by the unilateral claims of other Far Eastern countries to exclusive fishery zones, and, since World War II, has become a party to several multilateral and bilateral treaties relating to conservation of fisheries. See Section III, E, and F, supra. Port Regulations prohibiting discharge of noxious materials within 10,000 meters of a port, enacted by Law No. 174 of 1948, as amended by Law No. 98, 24 May 1949, are given in official English translation in U. N. Leg. Series I, (1951), page 83. Report No. 152 (December 1951), Fisheries Program in Japan, 1945–51, compiled by W. C. Neville, was published in Tokyo in 1951 by the National Resources Section, General Headquarters, Supreme Commander for the Allied Powers, and gives valuable information on developments during that period.

23. Korea

a. Note. During the occupation of Japan by the Allied Powers, the "MacArthur Line" established limits for Japanese fishing. Among the waters so forbidden to Japanese fishermen was an extensive area off the coasts of Korea. Subsequently, Korea, by Presidential Proclamation of 18 January 1952, established exclusive fishery zones off its coasts, and declared its sovereignty over the continental shelf and superjacent waters. The Fishery Resources Conservation Law No. 298 of 12 December 1954 established fishery conservation zones. The Proclamation, and Law No. 298, reprinted below, were translated by the United Nations Secretariat. Statements by the Korean Foreign Ministry and by President Rhee of 26 January and 8 February 1952, respectively, purporting to refute Japanese charges against the Proclamation are contained in plain text telegrams in the files of the Department of State. In summary, they allege support of their position in previous actions of other governments, assert that the Proclamation is a conservation measure, and that it does not affect an extension of the territorial sea, and, finally, it is defended as action designed to avoid friction over alleged Japanese encroachments on Korean coastal waters.

b. Presidential Proclamation of Sovereignty over Adjacent Seas, 18 January 1952

Supported by well-established international precedents and
urged by the impelling need of safeguarding, once and for all, the interests of national welfare and defence, the President of the Republic of Korea hereby proclaims:

1. The Government of the Republic of Korea holds and exercises the national sovereignty over the shelf adjacent to the peninsular and insular coasts of the national territory, no matter how deep it may be, protecting, preserving and utilizing, therefore, to the best advantage of national interests, all the natural resources, mineral and marine, that exist over the said shelf, on it and beneath it, now, or which may be discovered in the future.

2. The Government of the Republic of Korea holds and exercises the national sovereignty over the seas adjacent to the coasts of the peninsula and islands of the national territory, no matter what their depths may be, throughout the extension, as here below delineated, deemed necessary to reserve, protect, conserve and utilize the resources and natural wealth of all kinds that may be found on, in or under the said seas, placing under the Government supervision particularly the fishing and marine hunting industries in order to prevent this exhaustible type of resources and natural wealth from being exploited to the disadvantage of the inhabitants of Korea, or decreased or destroyed to the detriment of the country.

3. The Government of the Republic of Korea hereby declares and maintains the lines of demarcation, as given below, which shall define and delineate the zone of control and protection of the national resources and wealth on, in or beneath the said seas placed under the jurisdiction and control of the Republic of Korea and which shall be liable to modification, in accordance with the circumstances arising from new discoveries, studies or interests that may come to light in future. The zone to be placed under the sovereignty and protection of the Republic of Korea shall consist of seas lying between the coasts of the peninsular and insular territories of Korea and the line of demarcation made from the continuity of the following lines:

a. From the highest peak of U-Am-Ryung, Kyung-Hung-Kun, Ham-Kyong-Pukdo to the point (42° 15'N – 130° 45'E)
b. From the point (42° 15'N – 130° 45'E) to the point (38° 00'N – 132° 50'E)
c. From the point (38° 00'N – 132° 50'E) to the point (35° 00'N – 130° 00'E)
d. From the point (35° 00'N – 130° 00'E) to the point (34° 40'N – 129° 10'E)
e. From the point (34° 40'N – 129° 10'E) to the point (32° 00'N – 127° 00'E)
f. From the point (32° 00'N - 127° 00'E) to the point (32° 00'N - 124° 00'E)
g. From the point (32° 00'N - 125° 00'E) to the point (39° 45'N - 124° 00'E)
h. From the point (39° 45'N - 124° 00'E) to the western point of Ma-An-Do, Sin-Do-Yuldo, Yong-Chun-Kun, Pyungan-Pukdo.
i. From the western point of Ma-An-Do to the point where a straight line drawn north meets with the western end of the Korean-Manchurian borderline.

4. The declaration of sovereignty over the adjacent seas does not interfere with the rights of free navigation on the high seas.

* * * * * * *

**c. THE FISHERY RESOURCES CONSERVATION LAW, NO. 298, PROMULGATED 12 DECEMBER 1954**

**ARTICLE 1.** The seas lying between the coasts of the peninsular and insular territories of Korea and line of demarcation made from the continuity of the lines mentioned hereunder are hereby defined as the jurisdictional water for the conservation of the fishery resources (hereinafter referred to as the jurisdictional water).

a. Line from the highest peak of U-Am-Ryung, Kyung-Hung-Kun, Ham-Kyung-Pukdo to the point of 42° 15'N - 130° 45'E.
b. Line from the point of 45° 15'N - 130° 45'E to the point of 38° 00'N - 132° 50'E.
c. Line from the point of 38° 00'N - 132° 50'E to the point of 35° 00'N - 130° 00'E.
d. Line from the point of 35° 00'N - 130° 00'E to the point of 34° 40'N - 129° 10'E.
e. Line from the point of 34° 40'N - 129° 10'E to the point of 32° 00'N - 127° 00'E.
f. Line from the point of 32° 00'N - 127° 00'E to the point of 32° 00'N - 124° 00'E.
g. Line from the point of 32° 00'N - 124° 00'E to the point of 39° 45'N - 124° 00'E.
h. Line from the point of 39° 45'N - 124° 00'E to the western point of Ma-An-Do, Sin-Do-Yuldo, Yong-Chun-Kun, Pyungan-Pukdo.
i. Line from the western point of Ma-An-Do to the point where a straight line drawn north meets with the western end of the Korean-Manchurian borderline.

**ARTICLE 2.** Any person who desires to engage in fishing in the
jurisdictional water is required to obtain a permission from the competent Minister.

**ARTICLE 3.** Any person who violated the preceding Article shall be punished by a penal servitude or an imprisonment not exceeding three years, or by a fine not exceeding five hundred thousand Hwan, and any fishing vessel, equipment, catch, and cultured and manufactured product which are owned or possessed by such person shall be confiscated.

**ARTICLE 4.** In the search for the offence provided in the preceding Article, the officers and sailors aboard Naval vessels, and other officials determined by Presidential Decree may carry out the functions of the judicial police officers.

In conducting the search provided in the preceding paragraph, they may, if necessary, bring home any vessel which violated the provisions of this Law.

If a vessel excites suspicion of violating Article 2, they may halt, visit, search and make any other necessary disposition of a vessel, even if such a vessel is only a vessel in transit.

**SUPPLEMENTARY REGULATIONS**

A permission, license or notice in force on 19 February 1952 shall be regarded as if it were obtained in accordance with this Law.

This Law shall become effective on the day of its promulgation.

24. **Mexico**

a. **NOTE.** Mexico was one of the earliest countries to make a claim to the continental shelf. The Presidential Declaration with respect to continental shelf, 29 October 1945, is given in English translation in N. W. C., *I. L. Documents, 1948–49*, page 185. Another English translation by the United Nations Secretariat appears in *U. N. Leg. Series I,* (1951), page 13. Extracts from an English translation by the U. S. Embassy in Mexico are printed in *I. C. J., Pleadings, 1951, U. K.-Norway,* II, page 253. A Presidential Decree of 25 February 1949, translated by the United Nations Secretariat, incorporating in the property of "Petróleos Mexicanos" the subsoil of the lands covered by the territorial waters of the Gulf of Mexico and other lands specified therein, is printed in *U. N. Leg. Series I,* (1951), page 14. This translation is reprinted below. Mexican laws concerning earlier claims to 9 miles of territorial waters may be found, *Ibid.,* page 84, *et seq.* In accordance with the final paragraph of the 1945 Decree, the Mexican Executive sent to the Mexican Congress proposed amendments to the Mexican Constitution to carry out the Decree. These have apparently not been enacted. *Document 2 (English)* of the Pan American Union, *Background Material on the Juridical Aspects of the Continental Shelf and Marine Waters,* for the Ciudad Trujillo Conference of 1956. A Note from the Mexican Minister of Foreign Affairs to the Norwegian Legation in Mexico, of 6 September 1949, states that the 9 mile claim remains in force. *I. C. J., Pleadings, 1951, U. K.-Norway,* III,
page 706. A similar statement and other comments on territorial waters are contained in A/2934, page 30.

Mexican enforcement of its claim to 9 miles against United States fishing vessels has led to numerous incidents that have been reported in the press and fishery publications. Diplomatic correspondence concerning these seizures, and seizures by other countries in enforcement of their claims have not been generally available for publication. The Department of State has made available to the Editor one such Note of Protest concerning Mexican seizures of United States fishing vessels in 1945 for alleged violation of the 9 mile limit. This United States Note of 14 January 1948 is reproduced below. According to Flashes, a publication of the National Fisheries Institute, Inc., of 10 August 1956, page 2, there have been numerous seizures of United States shrimp vessels by Mexican gunboats since 1950, and it is claimed that 8 shrimp trawlers have been seized more than 9 miles off the Mexican coast since 21 April 1956. This situation continues. A recent incident involved the seizure of an American shrimp boat and the wounding of the captain by gunfire. The New York Times, 14 November 1956, page 1, col. 3. The Mexican attitude toward these activities is reported in The New York Times, 18 November 1956, page 13, col. 1.

* * * * * * *


. . . In the exercise of the powers conferred upon me by article 89, paragraph 1, of the General Constitution of the Republic, and in virtue of the provisions of article 1, article 6, paragraph II, and article 7 of the Regulatory Act, issued in respect of petroleum, under article 27 of the Constitution, and

CONSIDERING:

I. That, according to the scientific surveys made, the subsoil of the lands comprised in the continental shelf may contain deposits of hydrocarbons capable of being utilized and exploited by the nation as was recognized in the declaration of 29 October 1945 by the Federal Executive which claimed for the nation the whole submarine shelf or platform adjacent to the coasts of the Republic and of its islands;

II. That in accordance with that declaration the Executive on 6 December 1945 submitted to the Congress of the Union and of the State Legislatures for consideration a constitutional amendment for the juridical restoration to the nation of the said continental shelf, with its natural wealth, in order that the nation may proceed to its proper exploitation;

12 Translation by the Secretariat of the United Nations.
III. That, in the case of hydrocarbons, the jurisdiction of the
Government of the Republic is indisputable, under the express
terms of article 27, paragraph 4, of the Federal Constitution,
whereby the nation is empowered to undertake the exploitation
of the petroleum resources of the subsoil of the continental shelf,
through the intermediary of the Public Petroleum Institution
known as Petróleos Mexicanos and in accordance with the system
of grants established in the Regulatory Act issued under the
above-mentioned article 27 of the Constitution in respect of
petroleum, I am pleased to issue the following

DECREE:

ARTICLE 1. The subsoil of the lands covered by the territorial
waters of the Gulf of Mexico adjacent to the zone included between
the Barra de Santecomapan, State of Veracruz, and the Barra de
Paso Real, State of Campeche, to a distance of five kilometres
from the low water mark, is hereby included in the property of
Petróleos Mexicanos;

ARTICLE 2. The subsoil of the lands covered by the waters of
the lagoons of Carmen, Machona, Mecocán and Términos in the
States of Campeche and Tabasco, from the average high water
mark in the said lagoons is also incorporated in the property of
Petróleos Mexicanos; and

ARTICLE 3. The Secretariat of the Economy shall proceed to
issue to Petróleos Mexicanos the title deeds relating to the lands
the subsoil of which is hereby incorporated in the property of that
institution.

* * * * * * * * *

c. UNITED STATES PROTEST NOTE OF 14 JANUARY 1948

"I have the honor to refer to your Excellency’s note No. 52602
of February 18, 1947, concerning the interception and detention,
in September, 1945, of four United States fishing vessels which
had been operating off the coasts of the State of Campeche.

"In the note under reference the statement is made that the ter-
ritorial waters of Mexico, in the relations between the United
States and Mexico, have an extension of nine miles, which exten-
sion, it is stated, is derived from interpretations of Article V of
the Treaty of 1848 and of Article I of the Treaty of 1853 between
the United States and Mexico. The Government of the United
States maintains, and has consistently maintained, that the general
territorial jurisdiction of Mexico, so far as United States nationals
are concerned, extends three miles seaward from the coast meas-
ured from the low-water mark. In this regard Your Excellency’s
attention is invited to this Embassy’s note of June 3, 1936,
addressed to your Excellency’s Government, which, after discussing at length the Treaty of 1848, pointed out that it furnished no authority for the Government of Mexico to claim generally that the territorial waters of Mexico extend nine miles from the coast. The same conclusion necessarily applies to the Treaty of 1853 which, in regard to the question of territorial waters, introduced no change in the terms of meaning of the Treaty of 1848.

"With reference to Article 17, Section II, of the General Law of National Wealth referred to in Your Excellency’s note and stated to be the justification of the seizures, the United States cannot, so far as that law purports to define the territorial waters of Mexico as coastal waters to the distance of nine nautical miles from land, accept its application to United States fishing vessels operating between three and nine miles off the coast. Further, the Government of the United States continues, as in 1936, to reserve all rights of whatever nature so far as concerns any effects upon American commerce from enforcement of this legislation, or of similar legislation which purports to extend the limit of general jurisdiction beyond three nautical miles.

"Your Excellency’s note states also that the vessels at the time of apprehension were four miles from the coast. Although on the basis of evidence available at this time it would appear that the actual distance was seventeen miles, it is not the intention of this Government to discuss this question which is one of fact. The violation of American rights is equally serious whether the seizure took place at the lesser or the greater distance, both being outside the territorial waters in which general jurisdiction could properly be exercised under the circumstances.

"In the sincere hope that the proposed negotiations between the Government of the United States and Your Excellency’s Government with respect to fisheries matters will remove all future difficulties in what Your Excellency rightly terms a routine matter of coast patrol, this Government does not at this time desire to press the issue of the unwarranted seizures of the vessels mentioned above or of other seizures which occurred recently. It does, however, desire to indicate to the Government of Mexico that it has not changed the position set forth in the note of June 3, 1936, and that it cannot recognize as justified any interference of this character with fishing vessels flying the flag of the United States when such vessels are situated at a distance of more than three miles from the coasts of Mexico."

25. Nicaragua

Note. The first official claim of Nicaragua to the continental shelf was

26. Norway

a. Note. The Norwegian base-line “system” as applied to that part of Norway situated northward of 66°28'48" N. latitude by virtue of the Royal Decree of 12 July 1935, as amended 10 December 1937, was upheld as against the United Kingdom in the Fisheries Case, (United Kingdom v. Norway), International Court of Justice Reports, 1951, page 116, et seq., reprinted Section I, A, supra. The voluminous correspondence, collections of national laws, arguments written and oral, and other documentation, are contained in I.C.J., Pleadings, 1951, U.K.-Norway, Vols. I–IV. There is also a fifth volume containing detailed maps of the disputed area.

A Royal Decree of 18 July 1952, as amended by Royal Decree of 17 October 1952, extended this Norwegian base-line “system” to that part of Norway southward of 66°28'48" N. latitude. The text of this Decree, as amended, translated by the United Nations Secretariat, is printed below. A Decree of the Crown Prince Regent of 30 June 1955 applied the base-line “system” to Jan Mayen Island waters.

In addition to the base-line “system,” Norway has claimed 4 miles as the breadth of its territorial sea, as measured from the base lines. This claim of 4 miles was not contested by the United Kingdom in the Fisheries Case, supra. Furthermore, Norwegian legislation with respect to fisheries off its coasts has asserted the power to prohibit and regulate outside territorial waters. The Herring and Brisling Fisheries Act of 25 June 1937, as amended up to 1 December 1954, provides in Article 1: “This Act shall apply to herring and brisling fishing off the Norwegian coast, irrespective of whether the fishing is carried on inside or outside the Norwegian territorial sea.” Article 81 of the Act establishes penalties. The Provisional Law of 6 May 1938 for the Conservation of Fisheries, and Royal Decrees of 5 May 1939 and 13 June 1947, pursuant to Article 7 of the 1938 Law, assert similar powers. French translations of the 1938 Law and the subsequent Royal Decrees appear in I.C.J., Pleadings, 1951, U.K.-Norway, III, pages 562–564. Norwegian comments on fishery problems and the breadth of the territorial sea are contained in A/2456, page 62, A/2934, page 35, and A/CN.4/99/Add. 1, page 46.

In January and February of 1956, sixteen Soviet fishing vessels were seized by Norwegian authorities for fishing within Norwegian waters. They were fined about $88,000, said to be the heaviest fines ever assessed by the Norwegian courts in one case. See The New York Times, January 31, February 1, 2, 3, and 7, 1956. Soviet fishing vessels were reported recently to
have been chased out of Norwegian waters by Norwegian patrol boats. The New York Times, September 2, 1956, page 2, col.! 4.

b. ROYAL DECREE OF 18 JULY 1952, AS AMENDED 17 OCTOBER 1952

The boundary of the fishery limits South of Traena (66° 28'8"N) shall be drawn outside, and parallel with, straight base-lines drawn between the following points:

<table>
<thead>
<tr>
<th>Number of point</th>
<th>Name of point</th>
<th>(Metric Measurement)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Position of point</td>
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<tr>
<td></td>
<td></td>
<td>N. Lat. Long. E.</td>
</tr>
<tr>
<td></td>
<td>Name of point</td>
<td>of Greenwich</td>
</tr>
<tr>
<td>48</td>
<td>West side of Bøvarden</td>
<td>66° 28'8&quot;</td>
</tr>
<tr>
<td>49</td>
<td>Lundbøen</td>
<td>66° 07'5&quot;</td>
</tr>
<tr>
<td>50</td>
<td>Svinglebøen</td>
<td>65° 38'5&quot;</td>
</tr>
<tr>
<td>51</td>
<td>West side of Høgtørken</td>
<td>65° 23'7&quot;</td>
</tr>
<tr>
<td>52</td>
<td>West side of Hummelvaer-Svartflesa</td>
<td>64° 58'9&quot;</td>
</tr>
<tr>
<td>53</td>
<td>West side of Fråholmsnes-Svartflesa</td>
<td>64° 54'9&quot;</td>
</tr>
<tr>
<td>54</td>
<td>West side of Erttenbraken</td>
<td>64° 46'9&quot;</td>
</tr>
<tr>
<td>55</td>
<td>Utgrunnskjæra</td>
<td>64° 12'9&quot;</td>
</tr>
<tr>
<td>56</td>
<td>Midtre Springeren</td>
<td>63° 54'7&quot;</td>
</tr>
<tr>
<td>57</td>
<td>Hilbøen off Andholmsleden</td>
<td>63° 53'0&quot;</td>
</tr>
<tr>
<td>58</td>
<td>The most north-westerly of the Dreitflu</td>
<td>63° 50'0&quot;</td>
</tr>
<tr>
<td>59</td>
<td>North-west side of Flesa</td>
<td>63° 32'2&quot;</td>
</tr>
<tr>
<td>60</td>
<td>Outer Smoksbøen</td>
<td>63° 28'2&quot;</td>
</tr>
<tr>
<td>61</td>
<td>Outer Skatbøen</td>
<td>63° 26'4&quot;</td>
</tr>
<tr>
<td>62</td>
<td>Fogna</td>
<td>63° 07'1&quot;</td>
</tr>
<tr>
<td>63</td>
<td>Outermost Kjeldskjæra</td>
<td>62° 48'9&quot;</td>
</tr>
<tr>
<td>64</td>
<td>Skreia</td>
<td>62° 41'1&quot;</td>
</tr>
<tr>
<td>65</td>
<td>The dry skerry north of Skjaerkalven off Svinøy</td>
<td>62° 20'2&quot;</td>
</tr>
<tr>
<td>66</td>
<td>The most westerly of the Bukketyve</td>
<td>61° 11'2&quot;</td>
</tr>
<tr>
<td>67</td>
<td>Steinen</td>
<td>62° 01'7&quot;</td>
</tr>
<tr>
<td>68</td>
<td>The most southerly of the Vetrunger</td>
<td>61° 56'3&quot;</td>
</tr>
<tr>
<td>69</td>
<td>The most westerly of the Senninger</td>
<td>61° 39'1&quot;</td>
</tr>
<tr>
<td>70</td>
<td>The outermost reef off the Nordholmer</td>
<td>61° 04'4&quot;</td>
</tr>
<tr>
<td>71</td>
<td>The north-west point of Steinøy</td>
<td>61° 02'1&quot;</td>
</tr>
<tr>
<td>72</td>
<td>The west side of Mulen</td>
<td>61° 01'7&quot;</td>
</tr>
<tr>
<td>73</td>
<td>The west point of Gangvarskjæra</td>
<td>60° 38'3&quot;</td>
</tr>
<tr>
<td>74</td>
<td>Herboskjaeret</td>
<td>60° 18'8&quot;</td>
</tr>
<tr>
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<td>The most westerly Hufteskjæra</td>
<td>60° 15'7&quot;</td>
</tr>
<tr>
<td>76</td>
<td>The west point of Fugløy</td>
<td>60° 00'7&quot;</td>
</tr>
<tr>
<td>77</td>
<td>Terneskjær</td>
<td>59° 48'0&quot;</td>
</tr>
<tr>
<td>78</td>
<td>Boaskjær</td>
<td>59° 38'5&quot;</td>
</tr>
<tr>
<td>79</td>
<td>The most westerly point of Utsira</td>
<td>59° 18'4&quot;</td>
</tr>
<tr>
<td>80</td>
<td>The north-west point of the westernmost of the Spannholmer</td>
<td>59° 17'0&quot;</td>
</tr>
<tr>
<td>81</td>
<td>The south-west point of the westernmost of the Spannholmer</td>
<td>59° 16'9&quot;</td>
</tr>
<tr>
<td>82</td>
<td>Lausingen</td>
<td>59° 16'3&quot;</td>
</tr>
<tr>
<td>Number of point</td>
<td>Name of point</td>
<td>Position of point</td>
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</tr>
<tr>
<td>83</td>
<td>Sveljeskjaer</td>
<td></td>
</tr>
<tr>
<td>84</td>
<td>The westernmost dry skerry off Imsen.</td>
<td></td>
</tr>
<tr>
<td>85</td>
<td>Outer Faksen off Kjør.</td>
<td></td>
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<tr>
<td>86</td>
<td>Jaerens Rev</td>
<td></td>
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<tr>
<td>87</td>
<td>Oyresteine</td>
<td></td>
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<tr>
<td>88</td>
<td>Obrestadodden</td>
<td></td>
</tr>
<tr>
<td>89</td>
<td>Horrodden</td>
<td></td>
</tr>
<tr>
<td>90</td>
<td>Ørenodden</td>
<td></td>
</tr>
<tr>
<td>91</td>
<td>Jaer Rauna</td>
<td></td>
</tr>
<tr>
<td>92</td>
<td>The outermost skerry south of Ekerøy light</td>
<td></td>
</tr>
<tr>
<td>93</td>
<td>The westernmost of the Røsholmer</td>
<td></td>
</tr>
<tr>
<td>94</td>
<td>South Svetling</td>
<td></td>
</tr>
<tr>
<td>95</td>
<td>Flatskjaer off the Svåholmer.</td>
<td></td>
</tr>
<tr>
<td>96</td>
<td>Springeren off Festre Knappe</td>
<td></td>
</tr>
<tr>
<td>97</td>
<td>The outermost skerry off Skarvodden on Lista</td>
<td></td>
</tr>
<tr>
<td>98</td>
<td>The most south-westerly point on Brekenholmen</td>
<td></td>
</tr>
<tr>
<td>99</td>
<td>The southern point of Gråhaugen.</td>
<td></td>
</tr>
<tr>
<td>100</td>
<td>The outermost skerry off Lille Døsen.</td>
<td></td>
</tr>
<tr>
<td>101</td>
<td>The outermost skerry off Døsen</td>
<td></td>
</tr>
<tr>
<td>102</td>
<td>West Kattestein</td>
<td></td>
</tr>
<tr>
<td>103</td>
<td>The outermost skerry off Rauna</td>
<td></td>
</tr>
<tr>
<td>104</td>
<td>Bispen</td>
<td></td>
</tr>
<tr>
<td>105</td>
<td>The southernmost skerry in the Gjeslinger near Utvåre</td>
<td></td>
</tr>
<tr>
<td>106</td>
<td>The southernmost skerry off outer Odden.</td>
<td></td>
</tr>
<tr>
<td>107</td>
<td>Ytreskjaer</td>
<td></td>
</tr>
<tr>
<td>108</td>
<td>The most south-easterly Gåsskjaer</td>
<td></td>
</tr>
<tr>
<td>109</td>
<td>West Ballastskjaer</td>
<td></td>
</tr>
<tr>
<td>110</td>
<td>Lille Svarten</td>
<td></td>
</tr>
<tr>
<td>111</td>
<td>Meholmsskjaer</td>
<td></td>
</tr>
<tr>
<td>112</td>
<td>Langbåen reef</td>
<td></td>
</tr>
<tr>
<td>113</td>
<td>The outermost skerry off the Gjeslinger near Gåsen (light)</td>
<td></td>
</tr>
<tr>
<td>114</td>
<td>Hesnesbregen</td>
<td></td>
</tr>
<tr>
<td>115</td>
<td>The most south-easterly skerry in Lossene</td>
<td></td>
</tr>
<tr>
<td>116</td>
<td>Brenningene beacon</td>
<td></td>
</tr>
<tr>
<td>117</td>
<td>Mål</td>
<td></td>
</tr>
<tr>
<td>118</td>
<td>Store Sildskjaer (beacon)</td>
<td></td>
</tr>
<tr>
<td>119</td>
<td>The outermost skerry or rock east of the southwest point of Jomfruland.</td>
<td></td>
</tr>
<tr>
<td>120</td>
<td>Skerry south of Tvisteinen lighthouse</td>
<td></td>
</tr>
<tr>
<td>121</td>
<td>Skerry off the southern point of Erholmen in Rauer</td>
<td></td>
</tr>
<tr>
<td>122</td>
<td>Midtre Heiaflu</td>
<td></td>
</tr>
<tr>
<td>123</td>
<td>Frontier post XX (G.B. 2, buoy)</td>
<td></td>
</tr>
</tbody>
</table>
ROYAL DECREES OF 17 OCTOBER 1952

The Royal Decree of 18 July 1952, setting out the base-line reference-points with regard to the fishery limits South of Traena, shall be amended in the following respects:

(Metric Measurement)

<table>
<thead>
<tr>
<th>Number of point</th>
<th>Name of point</th>
<th>N. Lat.</th>
<th>Long. E.</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>Svinglebåen</td>
<td>65° 38'5</td>
<td>11° 16'2</td>
</tr>
<tr>
<td>95</td>
<td>Flatskjæer off the Svåholmer</td>
<td>58° 22'3</td>
<td>6° 02'9</td>
</tr>
<tr>
<td>113</td>
<td>The outermost skerry of the Gjeslinger near Gåsen (light)</td>
<td>58° 13'0</td>
<td>8° 29'0</td>
</tr>
</tbody>
</table>

27. Pakistan

NOTE. A Declaration by the Governor-General, 9 March 1950, asserted that "** * * the seabed along the coasts of Pakistan extending to the one hundred fathom contour into the open sea shall, with effect from the date of this declaration, be included in the territories of Pakistan." The complete text is printed in U. N. Leg. Series I (1951), page 303.

28. Panama

NOTE. Article 209 of the Constitution, 1 March 1946, claims as belonging to the State and for public use: "(4) The aerial space and the submarine continental shelf which appertain to the national territory; * * *.*" The wording is taken from the text of Article 209 as translated by the United Nations Secretariat in U.N. Leg. Series I, (1951), page 15. Another translation of Article 209's introductory clause and (4) appear in N.W.C., I.L. Documents, 1948-49, page 186. Decree No. 449, for the Regulation of Shark Fishing by Foreign Vessels in the Waters under the Jurisdiction of the Republic, 17 December 1946, Article 3, as translated by the United Nations Secretariat and printed in U.N. Leg. Series I (1951), page 16, reads as follows: "For the purposes of fisheries in general, national jurisdiction over the territorial waters of the Republic extends to all the space above the seabed of the submarine continental shelf. For this reason the product of any fishing within the limits indicated is considered a national product, and is therefore subject to the provisions of the present decree."

29. Peru

NOTE. The tripartite claim of Chile-Ecuador-Peru to a maritime zone of 200 miles for exclusive exploitation of fisheries, and related developments, together with the documents, may be found in Section II, D, supra. Shortly after Chile's unilateral claim to such a 200 mile zone (see Chile, supra) Peru made a similar unilateral claim in Presidential Decree No. 781, concerning submerged continental or insular shelf, 1 August 1947. English translations of this Decree appear in U. N. Leg. Series I, (1951), page 16; N. W. C., I. L. Documents, 1948-49, page 190; and a French translation in I. C. J., Pleadings, 1951, U. K.-Norway, III, page 709. The United Kingdom Protest Note to Peru is printed in Ibid., II, page 747. The United States Protest Note to Peru appears in U. N. Leg. Series I, (1951), page 17; A/CN.4/19, page 113, and
30. Philippines

a. Note. The Petroleum Act of 1949 provides in Article 3, entitled State Ownership, in part as follows: "All natural deposits or occurrences of petroleum or natural gas in public and/or private lands in the Philippines, whether found * * * on the continental shelf, or its analogue in an archipelago, seaward from the shores of the Philippines which are not within the territories of other countries, belong to the State, inalienably and imprescriptibly." The quotation is taken from Article 3, as reprinted in U. N. Leg. Series I (1951), page 19.


b. NOTE FROM PHILIPPINE FOREIGN MINISTRY TO THE UNITED NATIONS SECRETARIAT, 12 DECEMBER 1955

"The official pronouncement of the Government of the Republic of the Philippines, as contained in its diplomatic notes to various countries, is as follows:

"The position of the Philippine Government in the matter is that all waters around, between and connecting the different islands belonging to the Philippine Archipelago irrespective of their widths or dimensions, are necessary appurtenances of its land territory, forming an integral part of the national or inland waters, subject to the exclusive sovereignty of the Philippines. All other water areas embraced in the imaginary lines described in the Treaty of Paris of December 10, 1898, the treaty con-
cluded at Washington, D. C., between the United States and Spain on November 7, 1900;¹⁴ and the Agreement of January 2, 1930, between the United States and the United Kingdom,¹⁵ and the Convention of July 6, 1932 between the United States and Great Britain,¹⁶ as reproduced in Section 6 of Act No. 4003 and Article I of the Philippine Constitution, are considered as maritime territorial waters of the Philippines for purposes of protection of our fishing rights, conservation of our fishing resources, enforcement of revenue and anti-smuggling laws, defense and security, etc.

“It is the view of our Government that there is no rule of international law which defines or regulates the extent of the inland waters of a State.”

31. Roumania

Note. Decree No. 39 of 28 January 1956, concerning the regulation of the regime of territorial waters of the People’s Republic of Roumania, asserts in Article 1 a claim to territorial waters of 12 miles. Article 2 claims the subsoil and airspace within the 12 mile limit. A letter, October 3, 1956, from the Counselor of the Royal Swedish Embassy to the Editor, confirms that Sweden sent Roumania a Note of Protest concerning a previous Roumanian claim to extensive territorial waters.

32. Saudi Arabia


¹⁴ Ibid., p. 82.
¹⁵ Ibid., 3ème série, tome XXVII, p. 58.
¹⁶ Ibid., p. 66.
33. Sweden

NOTE. Sweden’s views and practice with respect to base lines and a 4 mile breadth of territorial waters is similar to but not identical with Norway. Various Swedish legislation and memoranda of position are printed in French in I.C.J., Pleadings, 1951, U.K.-Norway, III, pages 714–736, and IV, page 620. Royal Notice No. 317 of 5 June 1953, Concerning the Peacetime Division of the Armed Forces and the Division of the Kingdom into Military Districts defines territorial waters for this purpose (Footnote to Annex II—Norland Coast Naval District) as: “(a) harbours, harbour entrances and bays along the coasts of the Kingdom together with other maritime waters inshore of and between the islands, islets and drying rocks off the coasts; and (b) all other maritime waters up to a distance of four nautical miles, or 7,408 meters, from the land domain of the Kingdom or from lines representing the seaward boundary of the waters referred to in (a), but not beyond the limit, as specifically determined, of another country’s territorial waters.” Similar definitions are contained in earlier Swedish legislation, some of which is printed in I.C.J. Pleadings, cited, supra.

In A/CN.4/99, page 30, Sweden expresses a preference for a 6 mile limit as the breadth of territorial waters recognized by international law, with 12 miles exceptionally when justified historically. The “system” of base lines employed in Swedish practice is explained and supported. Earlier Swedish statements may be found in A/2934, page 37, and A/2456, page 65. A recent Note by Torsten Gihl, “The Limits of Swedish Territorial Waters,” is in 50 A.J.I.L. (1956), page 120. Exchange of Notes in 1951 between Sweden and the Soviet Union concerning the limits of territorial waters in the Baltic are reprinted in Union of Soviet Socialist Republics, 36, c, infra. Notes by Sweden to Chile and Ethiopia are reprinted, 6 and 15, supra.

34. Turkey

NOTE. In a Note of 2 March 1956 from Turkey’s Permanent Mission to the United Nations, A/CN.4/99, page 37, at page 40, the view is expressed that “the 12-mile limit (for territorial waters) has already obtained the general practice necessary for its acceptance as a rule of international law.” No official text asserting this claim has been found. A Turkish claim to 6 miles is listed in previous International Law Commission documents. On 16 July 1956, a further Note from Turkey’s Permanent Mission to the United Nations, for the Secretariat, stated that a new law on Turkish territorial water limits was being prepared and that it would result in important modifications to previous legislation. For discussion of earlier Turkish provisions on territorial waters, see comments by Israel in A/CN.4/19, page 87.

35. United Kingdom, Arab Protectorates, and Colonies

a. CONTINENTAL SHELF

NOTE. The United Kingdom was the first country to take official action with respect to the continental shelf in its Treaty with Venezuela relating to the submarine areas of the Gulf of Paria, 26 February 1942, summarized supra, Section V. The text is printed in U.N. Leg. Series I (1951), page 44,
The United Kingdom Order in Council of 6 August 1942 annexing the submarine areas allocated to the United Kingdom under the Treaty is in Ibid., page 46. The texts of Proclamations by the Sheikhs of the Arab States under the protection of the United Kingdom, issued in 1949, claiming the contiguous sea bed and subsoil of the Persian Gulf, as supplied in English translation by the British Foreign Office, are printed in Ibid., pages 22–30. Orders in Council claiming the continental shelf for the Bahamas, Jamaica, British Honduras, and Falkland Islands, are printed Ibid., pages 31, 33, 304 and 305. The Treaty, Orders in Council, and Proclamations contain specific provisions preserving the right of free navigation and fisheries in the waters above the areas claimed. Orders in Council of a similar character have been made for British Guiana, 1954; Brunei, 1954; North Borneo, 1954; and Sarawak, 1954. The Order in Council for British Guiana, 1954, which is typical of all the claims referred to above, provides as follows:

"2. The boundaries of the Colony of British Guiana are hereby extended to include the area of the continental shelf being the seabed and its subsoil which lies beneath the high seas contiguous to the territorial waters of British Guiana.

"3. Nothing in this order shall be deemed to affect the character as high seas of any waters above the said area of the continental shelf."

The text of the above British Guiana (Alteration of Boundaries) Order in Council, 1954, is from Statutory Instruments, 1954, No. 1372, Colonies, Protectorates and Trust Territories.

* * * * * * * *

b. TERRITORIAL WATERS AND FISHERIES

Note. The United Kingdom has maintained vigorously that the limit of territorial waters is 3 nautical miles from the low-water mark. The base-line systems and closing of seas and bays of greater than 10 mile width, employed by other States, supra, is regarded as invalid. The United Kingdom has stated her viewpoint in the Fisheries Case (United Kingdom v. Norway), Section I, A, supra, in numerous Notes of Protest sent to other States whose claims exceeded these limits, and in Treaties with other States. The most recent assertion of the United Kingdom's traditional position may be found in the Exchange of Notes with the U.S.S.R. (1956), reprinted, Section IV, B, supra. References to all of these materials have been made throughout this book. The United Kingdom's comments on the 3 mile rule may be found in A/CN.4/99/Add. 1, pages 61–63, and A/2934, pages 41–43; on the continental shelf, A/2456, page 68; and on fisheries conservation, A/CN.4/99/Add. 5. A Statement of United Kingdom Policy on Territorial Waters, 14 December 1953, is reprinted below, (1).

The national legislation of the United Kingdom which refers to the 3 mile rule is voluminous. Starting with the Territorial Waters Jurisdiction Act, 1878, the reference to a 3 mile limit has been quite consistent. There have been occasional assertions of power to act beyond 3 miles for certain purposes, such as in the Sea Fisheries Act, 1868, as amended in 1875, which, in Article 67, asserts power to enact bye-laws for Irish Sea oyster beds up to 20 miles. Certain legislation employs the device of indirectly prohibiting acts outside 3 miles by punishing consequences within, as in the Trawling in

Legislation for the Colonies has with equal consistency defined territorial waters as 3 miles from low-water mark, or occasionally as meaning what is "* * * deemed by international law to constitute the territorial waters." The Bermuda Interpretation Act, 9 July 1951, Section 5(f), defines territorial waters as "* * * within a line drawn three nautical miles outside the outer reefs of these Islands." There is a similar definition in the Cyprus Interpretation Law, 20 September 1935. The Fiji Islands Fisheries Ordinance, as amended in 1951, measures 3 miles from the seaward side of reefs fronting the coast, and the Gilbert and Ellice Islands Fisheries Ordinance, 1946, measures from the reef. The Federation of Malaya Interpretation and General Clauses Ordinance, 1948, uses the "deemed by international law" language, supra, as does Sarawak Interpretation Ordinance, 1953. The Federated Malay States Fisheries Enactment, 1937, in Section 14 (ii) (e), (f) and (g), gives the Ruler of each State the asserted power to prohibit, regulate, or license fishing in areas "without territorial waters." The Mauritius Districts Ordinance, 1 September 1875, Section 3, defines the seacoast as 3 miles but adds a proviso that "* * * the Governor may by proclamation extend the seaward limits of Districts to a greater distance than three miles." The Somaliland Protectorate Fisheries Ordinance of 1934 defined territorial waters as 3 miles from low-water mark. However, in the Customs Ordinance, 1952, the measurement was 3 miles from outer reefs.

Many of the laws mentioned in this and the preceding note, and most of the Protest Notes are contained in I.C.J., Pleadings, 1951, U.K.-Norway, Vols. I-IV, as well as the laws cited supra as being in U.N. Leg. Series I (1951). The Bahrain Proclamation of 5 June 1949 was translated and printed also in 43 A.J.I.L., Supp., 1949, page 185. The numerous treaties concerning fisheries and fishing limits to which the United Kingdom is a party are printed, supra, in Sections III and IV.

* * * * * * *

(1) STATEMENT OF UNITED KINGDOM POLICY ON TERRITORIAL WATERS, 14 DECEMBER 1953


* * * *

"For some time past her Majesty's Government in the United Kingdom have had under consideration the question whether the territorial waters round the coasts of the United Kingdom and overseas territories for which her Majesty's Government are responsible should be re-defined in the light of the judgment delivered by the International Court of Justice on December 18, 1951, in the Anglo-Norwegian fisheries case. After full consideration of the matter they have come to the conclusion that there should be no change; these territorial waters will, therefore, continue to be delimited by a line drawn three miles from low-water mark, or, in the case of
bays and estuaries, from a closing line drawn at the first point where they narrow to 10 miles in width.

"The judgment in the Norwegian case depended on the facts of that case. In the view of her Majesty's Government it ought not to be inferred from that judgment that, as a principle of international law, a baseline drawn in the manner authorized by that judgment in that particular case would necessarily be applied to all or any other coasts.

"Her Majesty's Government recognize that, legal considerations apart, an extension of United Kingdom territorial waters by means of the drawing of baselines, such as have been adopted along the indented coast of northern Norway, would be of some advantage to British inshore fisheries. Her Majesty's Government sympathize with the point of view of the inshore fishermen and are conscious of the effect on them of their decision. Her Majesty's Government are also informed that an extension of territorial waters would be of some advantage in certain colonies and other overseas territories for which her Majesty's Government are responsible, and they have taken this fully into account. Her Majesty's Government have, however, come to the conclusion that wider considerations, arising out of the naval, mercantile, and deepsea fishery positions of this country and like interests in the other territories concerned, must take precedence.

"Her Majesty's Government consider that the true interests of all seafaring nations are best served by the greatest possible freedom to use the seas for all legitimate maritime activities and they view with concern the increasing encroachments on the high seas which have taken place in recent years in many parts of the world.

At the same time, her Majesty's Government will continue to cooperate in securing the fullest possible measure of conservation of fisheries by means of international agreement through the commissions set up under the International Fisheries Conventions."

36. Union of Soviet Socialist Republics
a. CONTINENTAL SHELF

Note. In A/CN.4/38, Memorandum on the Soviet Doctrine and Practice with respect to the Regime of the High Seas (prepared by the Secretariat), 21 November 1950, page 10, it is stated that the Soviet Union has made no continental shelf claim nor has it responded to such claims by others. The Soviet Union national on the International Law Commission expressed various objections in the course of the debates on the provisional articles concerning the continental shelf but recorded no dissent to the substance of these articles when the final Report on the Law of the Sea was adopted by the Commission in Geneva in 1956. The Soviet Union has never submitted any written comments with respect to these or any of the other articles in the Report on the Law of the Sea.

* * * * * * * *

b. GENERAL POSITION OF THE SOVIET UNION ON TERRITORIAL WATERS AND FISHERIES

Note. The basic position of the Soviet Union with respect to the width
of the territorial sea is a claim to a 12 mile belt from low-water mark or defined lines. Although, historically, the Russian and the Soviet approach was by way of separate legislation with respect to different seas and oceans, the Soviet Union Note to the United Kingdom of 25 May 1956, reprinted supra, Section IV, B, states "* * * that the width of the Soviet Union's territorial waters and the regulations governing them were defined in the Statute concerning the Security of the State Frontiers of the Union of Soviet Socialist Republics of June 15, 1927." Extensive excerpts from this 1927 Statute, as translated by the United Nations Secretariat, may be found in U. N. Leg. Series I, (1951), page 116. This 1927 Statute, coupled with the 1935 Order referred to in the next paragraph, are relied on by the Soviet Union in their dispute with Sweden and Denmark over territorial water limits in the Baltic, discussed, infra, c.

Decree concerning the protection of fisheries and game reserves in the Arctic Ocean and the White Sea, 24 May 1921, makes a 12-mile claim for exclusive fisheries and makes extensive closings of the White Sea and various bays. U. N. Leg. Series I, (1951), page 116. Other legislation concerning property sunken at sea (1928); use of radio equipment on foreign vessels within territorial waters (1928), and jurisdiction in waters of the Gulf of Finland (1930), employing a 4 mile limit from defined lines, appears in Ibid., pages 120-124. Order of the Council of People's Commissars, No. 2157, for the regulation of fishing and the conservation of fisheries resources, 25 September 1935, defines the maritime coastal zone for marine fisheries as 12 sea miles in breadth, and contains extensive regulations on fishing areas and measures permitted therein. It contains also provisions for the closure of seas, gulfs, and bays. The attached Schedule lists various seas, gulfs, and bays included within the Order. The special regime for the Gulf of Finland is referred to in a note and the Schedule. Ibid., pages 124-130. Extracts from some of the laws cited above, and from a publication of the Law Institute of the Soviet Academy of Sciences and Letters defending claims to the White Sea and other waters as internal, may be found in I.C.J., Pleadings, 1951, U.K.-Norway, III, pages 737-739.

Regulations of 10 August 1954 Concerning the Conservation of Fishery Resources and the Regulation of Fishing in the Waters of the U.S.S.R. (approved by Order of the Council of Ministers of the U.S.S.R. of 10 August 1954) provide in part as follows:

"ARTICLE 1, PARAGRAPH 2. Marine fishery waters comprise the internal maritime waters (inland seas, gulfs, bays, and creeks of open seas) and territorial waters of the U.S.S.R (maritime frontier zone) to a width of twelve nautical miles measured from the low-water mark (both on the mainland and on islands) or, in the case of internal waters, from their outer edge.

"ARTICLE 6. Foreign nationals and bodies corporate of foreign States may not engage in commercial fishing or the commercial catching or gathering of other aquatic animals or plants in the waters of the U.S.S.R., except as provided in international agreements concluded by the U.S.S.R.""

The text of the 1954 Regulations, quoted above, was translated by the United Nations Secretariat. The U.S.S.R. abbreviations are the Editor's. Quotations from some of the laws cited above, various treaties, and excerpts from Soviet writers concerning territorial waters and closed seas are contained in A/CN.4/38, supra, especially pages 5–11.
On March 21, 1956, the Soviet Press published a Decree of the Council of Ministers making a unilateral claim to impose salmon fishing restrictions in wide areas of the Sea of Okhotsk and parts of the Bering Sea and the North Pacific Ocean. The text of this Decree, reprinted below, was furnished to the Editor by the Department of State. An article with a map of the area, and a dispatch from Tokyo saying the Japanese would not recognize the restrictions of the Decree, appear in The New York Times, 22 March 1956, page 14, column 3. On 14 May 1956, the Soviet Union and Japan concluded a short-term fishing pact which raised the quota of the salmon catch in the area from 55,000 to 65,000 tons. Ibid., 15 May 1956, page 1, column 8. The next day, a long-term fishing pact was signed which goes into effect upon the signing of a peace treaty or the resumption of diplomatic relations. The text of this latter agreement is printed, supra, Section III, F, 2. For data on the subsequent signing of a peace treaty in the fall of 1956, see Note to Section III, F, 2, supra. The Treaty entered into force on 12 December 1956 upon the exchange of ratifications in Tokyo. The New York Times, 13 December 1956, page 3, columns 1 and 2.

* * * * * * * * *

(1) Soviet Salmon Fishing Decree of 21 March 1956

"Existing scientific and fishing data show that the ever increasing scale of unregulated salmon fishing in the northwestern part of the Pacific Ocean, carried on without any consideration of the state of their numbers, threatens stocks of these valuable commercial species of fish with extinction. Under these conditions the very expensive measures carried out according to the policy of the Ministry of Fish Industries of the Union of Soviet Socialist Republics for the safeguarding and reproduction of salmon along the Okhotsk and Kamchatka Shores, in the rivers of which salmon come up to spawn, cannot guarantee the preservation of these stocks. With the aims of safeguarding and guaranteeing the high and stable level of the stocks of far-east salmon, the catching of which is the principal occupation of the population of the Soviet Far East and particularly of the population of the Okhotsk—Kamchatka Shore areas, the Soviet Council of Ministers decrees:

1. Until the conclusion of a suitable agreement with interested countries, zones of regulated fishing of far eastern salmon in the open sea are established temporarily in the Okhotsk Sea, and also in the western part of the Bering Sea and the waters of the Pacific Ocean contiguous to the territorial waters of the Union of Soviet Socialist Republics, lying to the west and northwest of a
conditional line passing through the following coordinates: from Cape Olyutorsk in the Bering Sea, south along the meridian to 48 degrees north latitude and 170 degrees 25 minutes east longitude, and then southwest to intersection with the boundary of the territorial waters of the Union of Soviet Socialist Republics at the island of Anuchin (Little Kurile Bank-Gryada).

In these zones salmon fishing in the period of their going to spawn (from May 15 to September 15), is limited both for Soviet organizations and citizens and for organizations and citizens of other states.

2. In the fishing season of 1956 the catch of far eastern salmon in the zones noted in point 1 of the present decree is fixed at 500 thousand centners (about 25 million units). Fishing in the noted zones can be carried out only by special permission given by the organs of fishing supervision in the Soviet Ministry of the fishing industry.

3. The supervision and control of fishing in the zones noted in point 2 of the present decree, is to be entrusted to the organs of fishing supervision.

4. The present decree in no measure involves freedom of navigation in the listed zones.”

* * * * * *

c. BALTIC TERRITORIAL WATER LIMITS: SOVIET DISPUTE WITH SWEDEN AND DENMARK

NOTE. The Treaty of Dorpat of 1920 between the Soviet Union and Finland placed a 4 mile limit on territorial waters in the Gulf of Finland, as did the 1930 Regulations, supra, b. The Baltic States were not incorporated into the Soviet Union until World War II, an incorporation which the United States does not recognize. The Soviet Union claims a 12 mile limit in the Baltic on the basis of the 1927 and 1935 laws, supra, b. As a result of Soviet seizures of Danish and Swedish fishing vessels allegedly within this 12 mile limit, an extensive exchange of Notes has taken place between these countries. The Danish Note of 24 July 1950 in French is reprinted in I.C.J., Pleadings, 1951, U.K.-Norway, III, page 626. A further Danish Note of 18 July 1951, also in French, may be found in Ibid., IV, page 570. Similar Notes of 24 July 1950 in French, and of 18 July 1951 in English, from Sweden to the Soviet Union may be found in Ibid., III, page 625, and IV, page 572. The official text of a subsequent Danish Note of 7 June 1952 in French is reprinted in Scandinavian Documents, 22 Nordisk Tidsskrift for International Ret, pages 87–88 (1952). (Acta Scandinavica Juris Gentium.)

Chapter VIII of Utrikesfrågor, 1950–51, issued by the Royal Swedish Foreign Office, Stockholm, 1952, contains a thorough discussion of the controversy. It includes statements by the Swedish Foreign Minister to the Upper and Lower Chambers of the Swedish Legislature; Press Release of June 6,

A letter to the Editor from the Counselor of the Royal Swedish Embassy, dated 26 July 1956, states that an official Swedish translation into English of some of the volumes of Utrikesfrågor is expected in the near future. Chapter VIII of the 1950–51 volume was translated for the Editor by Edith Anderson, whose services were obtained through the courtesy of the Swedish Embassy. The Notes of July 18, 1951, and of August 21, 1951, as thus translated, are reproduced below. They summarize the controversy and indicate the respective legal positions of the parties. On September 29, 1954, a Treaty regarding Salvage in the Baltic Sea was signed in Moscow between Sweden and the Soviet Union. At the time of signing, the Swedish Ambassador declared that the Swedish legal attitude concerning territorial water limits in the Baltic remained unchanged. See, also, Schapiro, “Limits of Russian Territorial Waters in the Baltic”, 27 B.Y.B. 439 (1950), for an extensive commentary on the history of the Russian claims in the Baltic. It is understood that the Federal Republic of Germany has also objected to this Soviet Baltic territorial waters claim.

* * * * * * * *

(1) **Note from the Swedish Embassy in Moscow to the Soviet Russian Foreign Ministry, July 18, 1951**

“By reason of certain seizures of Swedish vessels in the Baltic Sea by Soviet authorities, the Swedish Embassy pointed out in a note of July 24, 1950, that the Swedish Government had never recognized the right of any of the coastal states of the Baltic Sea to claim ocean territory up to 12 nautical miles in width. The Embassy also cited the fact that the extent of the territorial waters of the European states has for hundreds of years been fixed, being in the case of the Baltic coastal states 3 or, in certain cases, 4 miles, and that a legal situation has thereby been established in which the ocean beyond these territorial limits must be considered as high seas and therefore under the rules of international law can not be encroached upon. Extension of these territorial limits must accordingly, in the opinion of the Swedish Government, constitute an encroachment upon the high seas.

“In reply to these representations the Soviet Union’s Foreign Ministry has stated in a note to the Swedish Embassy of August 31, 1950, that no general rules of international law exist regarding the extent of territorial waters and that the determination of the extent of territorial waters falls exclusively within the competency of the appropriate state and that the extent of the Soviet Union’s
terrestrial waters was established by a decree of June 15, 1927, regarding the protection of the Soviet Union's national boundaries, which was made public at the time it was issued. The Soviet Union's Foreign Ministry maintains on the basis thereof that the claim that a certain extension of the Soviet Union's territorial waters has occurred is entirely unfounded and that the rights reserved by the Swedish Government as concerns the legality of any state's extension of its territorial waters beyond the historically established limits cannot refer to the decree issued in 1927. In connection therewith the Ministry rejects the claim put forth in the Embassy's note as to encroachment upon the high seas on the part of the Soviet Union.

"In reply the Swedish Government wishes to point out that the abovementioned law issued in 1927, and also the decree of September 25, 1935, regarding regulation of fisheries and protection of fish stocks referred to in the Soviet Foreign Ministry's note of May 26, 1950, could not have applied to the Gulf of Finland, where the extent of the Soviet Union's territorial waters was fixed at 4 nautical miles by the peace treaty concluded in 1920 in Dorpat between the Soviet Union and Finland nor could they have applied to the Baltic States' territorial waters in the Baltic Sea, as these states were at that time not incorporated with the Soviet Union. It has of course been known to the Swedish Government that the Soviet Union lays claim to territorial waters 12 nautical miles in width along its coasts on the Arctic Ocean and in Asia. But not until the seizures of Swedish vessels by Soviet Russian coast guard vessels during the last few years has it come to the Swedish Government's knowledge that the Soviet Union claims the right to exercise control in the Baltic Sea over a water area extending considerably beyond the territorial limits which have hitherto been applied by states bordering on the Baltic Sea. Not until receipt of the Foreign Ministry's note of May 26, 1950, was it officially brought to the Swedish Government's knowledge that the interferences of the Soviet authorities with the aforesaid Swedish vessels were based on the decree of June 15, 1927, regarding the protection of the Soviet Union's national boundaries and the decree of September 25, 1935, regarding regulation of fisheries.

"The Swedish Government maintains that the circumstances that international law does not provide definite rules regarding the extent of territorial waters in no wise implies that each state can at its own discretion make arbitrary claims in that respect. This must in the Swedish Government's opinion apply to an especially high degree in case a single one of the coastal states
within such a very limited area as the Baltic Sea, where all the coastal states have for hundreds of years been freely engaged in fishing and shipping, tries by means of an inordinate extension of its territorial waters to take away from the other coastal states a considerable part of the rights hitherto enjoyed by them. The Swedish Government considers itself therefore unable to deviate from its opinion as expressed in the Embassy’s note of July 24, 1950, to the effect that the Soviet Union’s claim to territorial waters to a width of 12 nautical miles in the Baltic Sea constitutes an extension of territorial waters beyond the historically established limits of the territorial waters in the area in question, and is an encroachment on the high seas. Swedish interests are thereby impaired. Other countries, including Sweden, have hitherto been able to engage in fishing without interference within the areas where the Russian authorities now seek to prevent this. In the Swedish Government’s opinion, therefore, an illegitimate encroachment has been made upon time-honored rights which are based on generally accepted regulations governing the right of fishing and shipping on the high seas.

“The opinion which the Swedish Government thus expressed in its note of July 24, 1950, has been disputed by the Soviet Union in its note of August 31, 1950. There is therefore difference of opinion between the Swedish Government and the Soviet Union regarding the legal situation on this point.

“If the Soviet Union’s Government finds itself unable to modify its opinion, the Swedish Government would deem it natural and constructive to dissolve these differences of opinion in the field of international law by referring them to the International Court for settlement. To be sure, there is no agreement between Sweden and the Soviet Union regarding settlement of legal differences between them through the International Court. But both Sweden and the Soviet Union are, in their capacity as members of the United Nations, in accordance with Article 93 of the Charter, ipso facto committed to the Statute of the International Court.

“The Swedish Government permits itself therefore to propose that a treaty be concluded between Sweden and the Soviet Union regarding submittal to the Court at The Hague of the question whether the Soviet Union—and consequently other Baltic Sea states also—can under international law claim territorial waters for 12 nautical miles beyond their coasts in the Baltic Sea and consequently exercise within this entire coastal zone the lofty rights which under international law are the prerogative of the coastal state within its territorial limit.”
(2) Note from the Soviet Russian Foreign Ministry to the Swedish Embassy in Moscow, August 21, 1951

"The Soviet Union's Foreign Ministry presents its compliments to the Swedish Embassy and has the honor to state the following in reference to the Embassy's note of July 18, this year, in which it was proposed that the question of the extent of the Soviet Union's territorial waters in the Baltic Sea be submitted to the International Court for settlement.

"As is well known, the extent of the Soviet Union's territorial waters was established 24 years ago by the decree of June 15, 1927, regarding the protection of the Soviet Union's national boundaries. As already pointed out in the Ministry's note of August 31, 1950, there are no general regulations contained in international law which fix the extent of territorial waters. It is also well known that the attempt to reach an international agreement on this question at the Hague Conference in 1930 regarding the codification of international law did not lead to any result. Neither has any international custom developed in this regard; the practice followed by different states in determining the extent of their territorial waters varies greatly. However, it is indisputable that as a general principle of international law with regard to the extent of territorial waters the one theory which can be accepted is that in the absence of special treaties the determination of the extent of territorial waters falls within the competency of the appropriate state and is fixed by its laws—wherefore it follows that in different states there are different limits of territorial waters.

"The circumstance must also be taken into consideration that, according to Article 38 of the Statute of the International Court, the court is bound, when deciding differences submitted to it, to apply partly international agreements which establish rules recognized by the contending states, partly international custom in evidence of a general practice accepted as valid law, partly also general legal principles recognized by the world's civilized peoples. The Soviet Union sees no reason, therefore, for submitting to the International Court a question which falls exclusively within the competency of the Soviet Union's legislative body.

"With regard to the Swedish Government's reference to the Dorpat Treaty of 1920 between the Russian Socialist Federated Soviet Republic and Finland, the Ministry deems it necessary to explain that this reference is also unfounded, as the said treaty lost its validity by the conclusion of the Soviet-Finnish Treaty of 1940 and the signing of the peace treaty with Finland in 1947."
“Likewise unfounded is the Swedish Government’s assertion that the decree of June 15, 1927, regarding the protection of the Soviet Union’s national boundaries and the decree of the Soviet Union’s Council of People’s Commissars (now Council of Ministers) of September 25, 1935, “regarding the regulation of fisheries and protection of fish stocks” do not apply to the territorial waters of the Soviet Baltic Sea republics, for the reason that federal legislation expanded automatically, at the very moment these republics became a part of the Soviet Union, so as to apply to them.”

37. Venezuela

Note. The United Kingdom-Venezuela Treaty relating to the Submarine Areas of the Gulf of Paria (1942) is summarized, supra, Section V. By a Law of 12 July 1942, Venezuela ratified this Treaty. The Venezuelan Constitution of 11 April 1953 provided in Article 2 that: “also subject to its (Venezuela’s) authority and jurisdiction are the bed of the sea and the subsoil of the areas that constitute the continental shelf as well as any islands that may be formed or that appear in this zone. The extent of the territorial sea, the contiguous maritime zone, and the air space over which the State exercises its vigilance shall be determined by law. Neither the territory nor the zones subject to the authority and jurisdiction of Venezuela may be alienated, ceded, or leased in any manner to a foreign state or states nor to any one having, representing, or managing their rights.” The quoted translation is taken from C.I.J.—24, (English), Handbook, Third Meeting of the Inter-American Council of Jurists, Pan American Union, 1955, page 18.

Navigation Law, 9 August 1944, translated by the United Nations Secretariat, establishing a 3 mile limit for territorial waters and an additional 9 miles as a contiguous zone, and closing bays at their entrance, appears in U. N. Leg. Series I (1951), page 131.

38. Yugoslavia

Note. Act concerning the coastal waters of the Federal People’s Republic of Yugoslavia, 1 December 1948 (28 November 1948), translated by the United Nations Secretariat, appears in U. N. Leg. Series I, (1951), page 132. Another English translation is in I. C. J., Pleadings, 1951, U. K.-Norway, III, page 750. United Kingdom Protest Notes and Yugoslavia’s reply concerning this Act may be found in Ibid., IV, pages 574–576. This Act treats the waters between the islands and the mainland as inland waters, and draws closing lines at the entrances up to 12 miles as well as base lines up to 12 miles across bays. Measured from these lines and the coastline, 6 miles is claimed as the territorial belt. Yugoslavia’s comments, defending its “system,” may be found in A/CN.4/99/Add. 1, page 85, at page 97, and A/2934, page 46, et seq. A/2456, page 70, contains Yugoslavia’s comments on the continental shelf question.

U. K.-Norway, III, page 753, is substantially identical. Both provisions forbid foreign nationals to fish in a zone 4 miles in width outside the limit of territorial waters claimed in the 1948 Act, supra, unless otherwise provided by law or treaties concluded by Yugoslavia. One such treaty is the Italy-Yugoslavia Fishery Agreement of 13 April 1949, referred to, supra, Section IV, C, and printed in English translation in U. N. Leg. Series I, (1951), page 240, and in French in I. C. J., Pleadings, 1951, U. K.-Norway, III, page 753. Another such treaty is a new Italy-Yugoslavia Fishery Agreement concluded on 1 March 1956, which adds new fishing zones with somewhat different limits, but is otherwise similar to the 1949 Agreement.