

International Law Studies—Volume 51

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.

## SUMMARY TABLE OF CONTENTS

	<i>Page</i>
PART I.	INTERNATIONAL LAW SITUATION..... 1
	SITUATION I. Neutral Duties, the passage of belligerent warships in neutral territorial waters, and the right of belligerents to use force to remedy violation of Neutrality..... 5
PART II.	RECENT DEVELOPMENTS IN THE LAW OF THE SEA—DOCUMENTS AND COMMENTARY ..... 49
SECTION I.	Judicial and Arbitral Decisions..... 55
SECTION II.	Multilateral Proposals, Agreements, and Claims of General Significance..... 157
SECTION III.	Fishery Agreements Relating to Conservation of Stock ..... 295
SECTION IV.	Fishery Treaties Defining Fishery Limits..... 385
SECTION V.	Treaty on Continental Shelf and Supplementary Legislation ..... 397
SECTION VI.	National Legislation, Unilateral Claims con- cerning the High Seas, the Territorial Sea, the Continental Shelf, and Fisheries. Rep- resentative Protests by other States..... 401
SECTION VII.	Recent Important Maritime Conventions of General Interest ..... 503
PART III.	NATIONAL CLAIMS AND AGREEMENTS PROVIDING FOR AIR AND SEA ZONES FOR DEFENSIVE PURPOSES..... 573
SECTION I.	Air Defense Identification Zones..... 577
SECTION II.	United States Air and Sea Regulations..... 601
SECTION III.	Testing Areas for Modern Weapons Systems... 609

## DETAILED TABLE OF CONTENTS

	<i>Page</i>
PART I. INTERNATIONAL LAW SITUATION.....	1
SITUATION I. NEUTRAL DUTIES, THE PASSAGE OF BELLIGERENT WARSHIPS IN NEUTRAL TERRITORIAL WATERS, AND THE RIGHT OF BELLIGERENTS TO USE FORCE TO REMEDY VIOLATION OF NEUTRALITY.....	5
The Situation .....	5
Problem .....	6
Solution .....	6
Notes:	
The <i>Altmark</i> Case.....	6
Comparison of Facts in Situation and <i>Altmark</i> Case.....	8
Opinions of Writers on <i>Altmark</i> Case.....	8
Provisions of Hague Convention XIII—Other Texts.....	10
“Mere Passage” .....	14
Application to the Present Situation.....	20
Application to the <i>Altmark</i> Case.....	21
Right of Search.....	21
State U as a Neutral Member of the United Nations.....	22
Use of Force by a Belligerent to Redress Abuse of Neutrality .....	23
Application to Present Situation.....	26
Application to <i>Altmark</i> Case.....	26
Student Comments .....	27
Adequacy of Convention XIII.....	27
Summary Conclusions .....	29
Solution .....	30
Appendix I to Situation I. Correspondence between the United Kingdom Government and the Norwegian Government respecting the German Steamer <i>Altmark</i> . (London, 17th February–15th March 1940. <i>Norway No. 1 (1950) Cmd. 8012</i> )..	30
PART II. RECENT DEVELOPMENTS IN THE LAW OF THE SEA—DOCUMENTS AND COMMENTARY.....	49
Note on Abbreviations.....	53
SECTION I. JUDICIAL AND ARBITRAL DECISIONS.....	55
A. Anglo-Norwegian Fisheries Case.....	59
1. Introductory Note to Fisheries Case.....	59
2. Bibliographical Note to Fisheries Case.....	62
3. Judgment (Opinion of the Court).....	65
4. Individual Opinion of Judge Alvarez.....	94
5. Separate Opinion of Judge Hsu Mo.....	103
6. Dissenting Opinion of Sir Arnold McNair.....	107

## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
B. Abu Dhabi Arbitration Award.....	137
1. Note .....	137
2. Text of the Award.....	137
SECTION II. MULTILATERAL PROPOSALS, AGREEMENTS, AND CLAIMS OF GENERAL SIGNIFICANCE.....	157
Bibliographical Note .....	161
A. United Nations International Law Commission Report on the Law of the Sea (Eighth Session, 1956).....	163
1. Note .....	163
2. Text of Articles concerning the Law of the Sea, as con- tained in the International Law Commission's Final Re- port on the Law of the Sea.....	164
3. Selected Commentaries by the United Nations Interna- tional Law Commission on the Articles concerning the Law of the Sea.....	185
B. Report of the International Technical Conference on the Con- servation of Living Resources of the Sea—Rome (1955)....	214
1. Note .....	214
2. Text of the Report.....	215
C. Developments at Inter-American Conferences—(1950-56)....	237
1. Introductory Note .....	237
2. Draft Convention on Territorial Waters and Related Ques- tions. (Inter-American Juridical Committee, Rio de Janeiro, July, 1952).....	238
a. Note .....	238
b. Text of Draft Convention.....	238
3. Resolution XIX, "Territorial Waters and Related Ques- tions" of the Second Meeting of the Inter-American Council of Jurists (Buenos Aires, 1953), and Reserva- tion of United States thereto.....	239
a. Note .....	239
b. Text of Resolution XIX.....	239
4. Resolution LXXXIV, "Conservation of Natural Resources: The Continental Shelf and Marine Waters", of the Tenth Inter-American Conference (Caracas, 1954).....	242
a. Note .....	242
b. Text of Resolution LXXXIV .....	242
5. Resolution XIII, "Principles of Mexico and the Juridical Regime of the Sea", with Statements and Reservations thereto, of the Third Meeting of the Inter-American Council of Jurists (Mexico City, 1956).....	244
a. Note .....	244
b. Text of Resolution XIII.....	244
6. Resolution I, "Resolution of Ciudad Trujillo", with State- ments of the Delegations appended thereto, of the Inter- American Specialized Conference on "Conservation of Natural Resources: The Continental Shelf and Marine Waters" (Ciudad Trujillo, 1956).....	255

## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
a. Note .....	255
b. Text of Resolution I.....	256
D. Chile-Ecuador-Peru Agreements, 1952-1955 .....	264
1. Introductory Note .....	264
2. Agreements between Chile, Ecuador and Peru signed at the First Conference on the Exploitation and Conservation of the Maritime Resources of the South Pacific, Santiago, 18 August 1952.....	265
a. Declaration on the Maritime Zone.....	265
b. Organization of the Standing Committee on the Use and Conservation of the Marine Resources of the South Pacific .....	267
c. Joint Declaration on Fishery Problems in the South Pacific .....	269
d. Regulations Governing Whaling in the Waters of the South Pacific .....	270
3. Agreements between Chile, Ecuador and Peru signed at the Second Conference on the Exploitation and Conserva- tion of the Maritime Resources of the South Pacific, Lima, 4 December 1954.....	275
a. Agreement Supplementary to the Declaration of Sov- ereignty over the Maritime Zone of Two Hundred Miles .....	275
b. Agreement relating to Penalties.....	276
c. Agreement relating to Measures of Supervision and Control in the Maritime Zones of the Signatory Countries .....	278
d. Agreement relating to the Issue of Permits for the Exploitation of the Maritime Resources of the South Pacific .....	279
e. Agreement relating to the Regular Annual Meeting of the Standing Committee .....	281
f. Agreement relating to a Special Maritime Frontier Zone .....	281
4. Final Act of the Third Meeting of the Permanent Com- mittee of the Conference on Exploitation and Conserva- tion of the Maritime Resources of the South Pacific (Quito), December, 1955. (Excerpts).....	282
a. Note .....	282
b. Resolution on the Quota of Whalebone Whales to be Hunted by Land Stations. (Resolution VIII).....	283
c. Resolution on Quotas for the Pelagic Hunting of Sperm Whales. (Resolution IX).....	283
d. Regulations on Permits for Exploitation of the Re- sources of the South Pacific.....	283
5. Enforcement—Judgment (Opinion) of Peruvian Port Offi- cer (1954) .....	289
a. Note .....	289
b. Text of Judgment.....	290

## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
SECTION III. FISHERY AGREEMENTS RELATING TO CONSERVATION OF STOCK.....	295
A. International Convention for the Regulation of Whaling, 1946, with Annexed Schedule containing Amendments as of 7 March 1956 .....	299
1. Note .....	299
2. Text of Convention .....	300
3. Text of Amendments .....	306
B. North Atlantic .....	315
1. International Council for the Exploration of the Sea (1902). Statutes of the Council as Revised 1950.....	315
a. Note .....	315
b. Statutes of the Council as Revised 1950.....	316
2. Convention for the Regulation of Meshes of Fishing Nets and the Size Limits of Fish (1946).....	317
a. Note .....	317
b. Text of Convention.....	317
3. International Convention for the North-West Atlantic Fisheries (1949) .....	324
a. Note .....	324
b. Text of Convention.....	324
C. Mediterranean .....	335
1. Agreement for the Establishment of a General Fisheries Council for the Mediterranean (1949).....	335
a. Note .....	335
b. Text of Agreement.....	335
D. Indo-Pacific .....	340
1. Agreement for the Establishment of an Indo-Pacific Fisheries Council (1948) .....	340
a. Note .....	340
b. Text of Agreement.....	340
E. North Pacific .....	345
1. Fur Seals. Note on Agreements.....	345
2. Sockeye Salmon. Note on Agreements.....	345
3. International Convention for the High Seas Fisheries of the North Pacific Ocean (1952) with Annex and Protocol .....	346
a. Note .....	346
b. Text of Convention.....	346
4. Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (1953) ...	356
a. Note .....	356
b. Text of Convention.....	357
F. Western Pacific .....	360
1. Introductory Note .....	360
2. Treaty between Japan and the Union of Soviet Socialist Republics concerning Fisheries on the High Seas in the North Pacific Ocean and Annex (1956) .....	361
a. Note .....	361
b. Text of Treaty.....	361

## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
3. Non-governmental Agreement Concerning Fishing in the Yellow Sea and the East China Sea (1956).....	368
a. Note .....	368
b. Text of Agreement.....	368
G. Eastern Pacific .....	370
1. Convention Between the United States of America and the Republic of Costa Rica for the Establishment of an Inter-American Tropical Tuna Commission, and Exchange of Notes (1950). Adherence by Panama 21 September 1953..	370
a. Note .....	370
b. Text of Convention.....	371
c. Exchange of Notes .....	375
H. Great Lakes .....	378
1. Convention on Great Lakes Fisheries Between the United States of America and Canada (1954).....	378
a. Note .....	378
b. Text of Convention.....	378
<b>SECTION IV. FISHERY TREATIES DEFINING FISHERY LIMITS .....</b>	<b>385</b>
A. Exchanges of Notes (1954 and 1955) amending the Convention between the United Kingdom and Denmark for Regulating the Fisheries outside Territorial Waters in the Ocean surrounding the Faroe Islands of June 24, 1901.....	388
1. Articles 2, 4 and Additional Article, 1901 Convention.....	388
a. Note .....	388
b. Text of Articles .....	388
2. Exchanges of Notes (1954 and 1955).....	389
a. Note .....	389
b. Texts of Notes.....	389
B. Fisheries Agreement Between the United Kingdom and the Union of Soviet Socialist Republics Together with Minute to Article 1 and Exchange of Notes on Territorial Waters (1956) .....	393
1. Note .....	393
2. Text of Agreement.....	393
C. Other recent similar Treaties. Note.....	396
<b>SECTION V. TREATY ON CONTINENTAL SHELF AND SUPPLEMENTARY LEGISLATION .....</b>	<b>397</b>
A. United Kingdom-Venezuela Treaty (1942) with summary and excerpts. Note .....	399
<b>SECTION VI. NATIONAL LEGISLATION, UNILATERAL CLAIMS CONCERNING THE HIGH SEAS, THE TERRITORIAL SEA, THE CONTINENTAL SHELF, AND FISHERIES. REPRESENTATIVE PROTESTS BY OTHER STATES</b>	<b>401</b>
A. The United States.....	407
1. The Continental Shelf.....	409
a. Introductory Note .....	409
b. Presidential Proclamation, 28 September 1945.....	410

## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
c. Submerged Lands Act, 22 May 1953.....	412
d. Outer Continental Shelf Lands Act, 7 August 1953....	418
2. Territorial Waters and Fisheries.....	431
a. Introductory Note .....	431
b. Presidential Proclamation, 28 September 1945.....	434
c. Executive Order No. 9634, 28 September 1945.....	435
d. Protection of Vessels on the High Seas and in Terri- torial Waters of Foreign Countries. Public Law 680, 27 August 1954.....	436
B. Significant Developments in Other Countries.....	439
1. Argentina. Note .....	441
2. Australia .....	441
a. Note .....	441
b. Proclamation of Continental Shelf, Australia, 10 Sep- tember 1953 .....	442
c. Proclamation of Continental Shelf, Territory of New Guinea, 10 September 1953.....	443
3. Brazil .....	444
a. Note .....	444
b. Presidential Decree No. 28, 840, 8 November 1950 (Ex- cerpts) .....	444
4. Bulgaria .....	444
a. Note .....	444
b. Decree of 10 October 1951 concerning the Territorial and Inland Waters of the People's Republic of Bul- garia .....	445
5. Canada. Note .....	447
6. Chile .....	448
a. Note on Claims and Protests.....	448
b. Swedish Note of Protest to Chile, October 1954.....	448
c. United States Note of Protest to Chile, 2 July 1948....	450
7. China, Republic of (Nationalist). Note.....	451
8. Costa Rica. Note .....	451
9. Cuba .....	452
a. Note .....	452
b. Articles 1 and 2 of Legislative Decree No. 1948 of 27 January 1955 .....	452
10. Denmark. Note .....	452
11. Dominican Republic .....	453
a. Note .....	453
b. Article V of Constitution of 1947 (Excerpt).....	453
c. Act No. 3342 of 13 July 1952 concerning the Extent of the Territorial Waters of the Republic.....	453
12. Ecuador .....	455
a. Note .....	455
b. Congressional Decree concerning the Continental Shelf, 21 February 1951.....	456
13. Egypt .....	457
a. Note .....	457



## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
b. Royal Decree concerning the Territorial Waters of the Kingdom of Egypt, 15 January 1951.....	458
14. El Salvador .....	460
a. Note .....	460
b. Article 7 of the Political Constitution of 7 September 1950 .....	460
15. Ethiopia .....	460
a. Note .....	460
b. Maritime Proclamation, No. 137 of 1953.....	461
c. Swedish Note of Protest to Ethiopia, 11 February 1954..	461
16. Guatemala .....	462
a. Note .....	462
b. Article 3 of the Constitution of the Republic of Guatemala of 1 March 1956.....	462
17. Honduras .....	462
a. Note .....	462
b. Congressional Decree No. 102, Amending the Political Constitution, 7 March 1950.....	463
c. Congressional Decree No. 25 (Approving Presidential Decree No. 96 of 28 January 1950), 17 January 1951..	464
18. Iceland .....	466
a. Note .....	466
b. Law No. 44 of 5 April 1948 concerning the Scientific Conservation of the Continental Shelf Fisheries, as Amended, and Statement of Reasons (Excerpts)....	468
c. Articles 1 and 2 of the Regulations of 19 March 1952 concerning conservation of fisheries off the Icelandic Coasts .....	471
19. India .....	472
a. Note .....	472
b. Presidential Proclamation of 22 March 1956.....	473
20. Iran .....	473
a. Note .....	473
b. Act of 19 June 1955 concerning the Exploration and Exploitation of the Continental Shelf.....	473
21. Israel .....	474
a. Note .....	474
b. Government's Decision of 11 September 1955.....	475
c. Proclamation of 3 August 1952.....	475
d. Submarine Areas Law, 5713-1953.....	475
22. Japan. Note .....	476
23. Korea .....	476
a. Note .....	476
b. Presidential Proclamation of Sovereignty Over Adjacent Seas, 18 January 1952.....	476
c. The Fishery Resources Conservation Law, No. 298, Promulgated 12 December 1954.....	478
24. Mexico .....	479
a. Note .....	479
b. Presidential Decree, 25 February 1949.....	480

## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
c. United States Protest Note of 14 January 1948.....	481
25. Nicaragua. Note .....	482
26. Norway .....	483
a. Note .....	483
b. Royal Decree of 18 July 1952, as Amended 17 October 1952 .....	484
27. Pakistan. Note .....	486
28. Panama. Note .....	486
29. Peru. Note .....	486
30. Philippines .....	487
a. Note .....	487
b. Note from Philippine Foreign Ministry to the United Nations Secretariat, 12 December 1955 .....	487
31. Roumania. Note .....	488
32. Saudi Arabia. Note.....	488
33. Sweden. Note .....	489
34. Turkey. Note .....	489
35. United Kingdom, Arab Protectorates, and Colonies.....	489
a. Continental Shelf. Note.....	489
b. Territorial Waters and Fisheries. Note .....	490
(1.) Statement of United Kingdom Policy on Ter- ritorial Waters, 14 December 1953 .....	491
36. Union of Soviet Socialist Republics.....	492
a. Continental Shelf. Note.....	492
b. General Position of the Soviet Union on Territorial Waters and Fisheries. Note.....	492
(1.) Soviet Salmon Fishing Decree of 21 March 1956	494
c. Baltic Territorial Water Limits: Soviet Dispute with Sweden and Denmark. Note.....	495
(1.) Note from the Swedish Embassy in Moscow to the Soviet Russian Foreign Ministry, July 18, 1951	496
(2.) Note from the Soviet Russian Foreign Ministry to the Swedish Embassy in Moscow, August 21, 1951 .....	499
37. Venezuela. Note .....	500
38. Yugoslavia. Note .....	500

SECTION VII. RECENT IMPORTANT MARITIME CONVEN- TIONS OF GENERAL INTEREST.....	503
A. International Load Line Convention (with Final Protocol and Annexes) signed at London, July 5, 1930.....	507
1. Note .....	507
a. Status of the Convention as of October 25, 1956.....	507
B. International Convention for the Safety of Life at Sea, 1948..	509
1. Note .....	509
a. Text of the Convention.....	510
b. Status Table as of October 25, 1956.....	517
2. International Regulations for Preventing Collisions at Sea, 1948. Note .....	519
a. Parties to the Regulations as of October 25, 1956.....	519

**DETAILED TABLE OF CONTENTS (Cont'd)**

	<i>Page</i>
C. United Nations Maritime Consultative Organization, 1948 (Not in Force, 1956).....	519
1. Note .....	519
a. Text of the Convention.....	520
b. Status of the Convention as of October 25, 1956 (Not in Force) .....	535
D. The International Convention for the Prevention of Pollution of the Sea by Oil, 1954. (Not in Force, 1956).....	537
1. Note .....	537
a. Text of the Convention and Annex A on Prohibited Zones .....	537
b. Status of the Convention as of October 25, 1956 (Not in Force) .....	548
(1) Signatories .....	548
(2) Ratifications .....	548
c. Oil in Navigable Waters Act, 1955 (3 and 4 Eliz. 2, Ch. 25). (Excerpts).....	549
(1) Note .....	549
(a) Text of Excerpts from Act.....	549
E. International Conventions on Maritime Law, Brussels, May 10, 1952 .....	561
1. Note .....	561
a. International Convention on Certain Rules concerning Civil Jurisdiction in Matters of Collision, Brussels, May 10, 1952. (Text).....	561
b. International Convention for the Unification of Certain Rules relating to Penal Jurisdiction in Matters of Collisions or Other Incidents of Navigation, Brussels, May 10, 1952. (Text).....	565
c. International Convention relating to the Arrest of Sea-going Ships, Brussels, May 10, 1952. (Text).....	566
2. Status of the 1952 Brussels Conventions as of 9 October 1956 .....	571
a. Civil Convention, Entered into Force 14 September 1955 .....	572
b. Penal Convention, Entered into Force 20 November 1955 .....	572
c. Arrest Convention, Entered into Force 24 February 1956 .....	572

**PART III. NATIONAL CLAIMS AND AGREEMENTS PROVIDING FOR AIR AND SEA ZONES FOR DEFENSIVE PURPOSES .....** 573

**SECTION I. AIR DEFENSE IDENTIFICATION ZONES.....** 577

A. United States Air Defense Identification Zone.....	579
1. Note .....	579
2. Security Control Regulations for Air Traffic.....	579
3. Interpretative Letter .....	591

## DETAILED TABLE OF CONTENTS (Cont'd)

	<i>Page</i>
B. Canadian Air Defense Identification Zone.....	592
1. Note .....	592
2. Rules for the Security Control of Air Traffic.....	592
<b>SECTION II. UNITED STATES AIR AND SEA REGULATIONS</b>	<b>601</b>
A. Defensive Sea Areas.....	602
1. Note .....	602
2. Areas currently in force.....	604
B. Airspace Reservations .....	604
1. Note .....	604
2. Reservations currently in force.....	605
C. Harbors Closed to Foreign Vessels.....	607
1. Note .....	607
D. Maritime Control Areas.....	607
1. Note .....	607
E. Customs Enforcement Areas.....	607
1. Note .....	607
<b>SECTION III. TESTING AREAS FOR MODERN WEAPONS SYSTEMS</b>	<b>609</b>
A. Long Range Proving Ground for Guided Missiles.....	611
1. Note .....	611
2. Agreement of 21 July 1950 between the United States and the United Kingdom establishing "The Bahamas Long Range Proving Ground.".....	612
B. Danger Areas for Nuclear Weapons Tests.....	627
1. Note .....	627
2. Closed Areas effective January 7, 1956.....	627
3. Danger Area effective April 20, 1956.....	628
4. Discontinuance, August 25, 1956, of Danger Area.....	628

## LIST OF MAPS AND CHARTS

	<i>Page</i>
FIGURE 1. Hypothetical Situation .....	4
FIGURE 2. Area involved in the Anglo-Norwegian Fisheries Case..	58
FIGURE 3. Icelandic Claim to Fishery Limit.....	467
FIGURE 4. U.S. Air Defense Identification Zones and Defense Areas .....	578
FIGURE 5. Canadian Air Defense Identification Zones and Security Identification Zones .....	593
FIGURE 6. U.S. Guided Missile Range.....	610