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PART II

International Legal Regime of Individual Ocean Theaters

Contents:

PART III

The Struggle of the USSR For Peace and the Prevention of War. International Maritime Law in Wartime.

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PART II

INTERNATIONAL LEGAL REGIME OF INDIVIDUAL OCEAN THEATERS

REGIME OF NAVIGATION AND BRIEF DESCRIPTION OF THE NORTH, BALTIC, BLACK AND CASPIAN SEA THEATERS AND THE PACIFIC OCEAN THEATER

The expression "sea (oceanic) theater" is used in this manual solely for convenience in defining and describing the international legal regime and navigation conditions in various geographic regions of the World Ocean, and bears no relation whatsoever to sea (oceanic) theaters of military operations.

CHAPTER I

INTERNATIONAL LEGAL REGIME OF THE NORTHERN MARITIME THEATER

1. Characteristics of the Theater

The northern maritime theater, due to its geographic location, special climatic conditions and, consequently, its navigation regime, differs sharply from all other maritime and ocean theaters. The central part of the Arctic Ocean, as well as most of the seas in this water basin, are covered with solid blocks of thick ice throughout most of the year. It is only during the summer months that "lakes," clearings and cracks free of ice appear in these regions.

In addition to the Soviet Union, the territory of Norway, the Danish island of Greenland, Canada and the United States of America (Alaska) border on the Arctic Ocean.

The northern maritime theater is of unusually great economic significance to the Soviet Union, the shores of which are washed by the waters of the seas of this theater over a vast distance. The Northern Sea Route, that great trunkline of the Soviet Union, passes through the seas of the Northern Maritime Theater: the Barents, Kara, Laptev, East Siberian and Chukchi.

The northern maritime theater is connected to the Atlantic Ocean by two open seas, the Norwegian Sea and the Greenland Sea. Only the narrow Bering Strait connects this theater with the Pacific Ocean.

2. Regime of the Water Expanse in the Theater

A characteristic feature of the northern maritime theater is that no internationally important routes pass through it. The seas of this theater wash the entire northern regions of the USSR, and it is only in the west that the waters of the Barents Sea wash a small area of the northern coast of Norway and the island of Spitsbergen,

which belongs to Norway. It is for this reason that the Soviet Union has a decisive role in determining the navigation regime in the theater.

The USSR carries on trade with many of the countries of Europe and America through ports in this theater. Such open ports of the USSR as Murmansk, Arkhangel'sk, Mezen', Onega, Nar'yan-Mar, Igarka, Umba, Kovda, Keret' and Kem' are located in the northern maritime theater.

Russia, even in prerevolutionary times, had undertaken a number of measures to protect the interests of Russian citizens with respect to maritime industry, fishing and navigation in the seas of the Arctic Ocean.

After the October Revolution the Soviet Government promulgated a series of legislative acts regulating fishing and maritime industry in the aforementioned regions.

On 4 May 1920, for example, the People's Commissar of Foreign Affairs of the RSFSR dispatched a note to Norway's Minister of Foreign Affairs in informing him that the White Sea is part of the inland waters of the Soviet State.

On 24 May 1921, a decree was promulgated by the Council of People's Commissars on the protection of fish and wild-life preserves in the Arctic Ocean and White Sea, signed by V. I. Lenin. The decree established the exclusive right of the RSFSR to exploit the fish and wild-life preserves in the following regions: in the White Sea, to the south of a straight line connecting Cape (Mys) Svyatoy Nos and Cape Kanin Nos; and Cheshskaya Guba and the Arctic Ocean, beginning at the western boundary (with Finland at that time) and extending to the northern tip of Novaya Zemlya along the coast at a distance of 12 miles from the low-water line along the mainland as well as along the shores of islands. The right to fish in this expanse of water was granted exclusively to Soviet citizens.

By decree of the Presidium of the Central Executive Committee of the USSR, dated 15 April 1926, the lands and islands in the Arctic Ocean were declared territory of the USSR. Later on, on 25 September 1935, the Government of the USSR adopted a resolution concerning the

regulation of fishing and the protection of fish stocks[1]

1. The 1935 resolution was superseded by a similar resolution adopted by the Council of Ministers of the USSR in 1954.

in accordance with which the inland waters of the USSR and a coastal belt of sea to a breadth of 12 nautical miles are included in the maritime fishing zone. Fishing and all other maritime industry on the part of foreign ships and citizens is forbidden in these waters. This resolution declared the White Sea to be inland waters of the Soviet Union over the entire stretch to the south of a line connecting Cape Svyatoy Nos and Cape Kanin Nos.

An exception to these laws with respect to fishing was the Provisional Agreement on Fishing, concluded between the USSR and Great Britain on 22 May 1930. This agreement granted to British fishing vessels the right to fish along the northern coast of the USSR between 32° and 48° East Longitude at distances of 3 to 12 nautical miles from the low-water line, as well as in the throat of the White Sea along the 68° 10' Parallel North Latitude.

This agreement was denounced in 1953. The term of this agreement was then extended for one year, to 5 July 1954, after which it was extended for another year, to 5 July 1955. On 25 May 1956, the parties signed a new fishing agreement, in accordance with which British fishing vessels were granted the right to fish, navigate and anchor in the Soviet territorial sea at least 3 miles beyond the low-water mark along the shores of the Kola Peninsula between 36° and 37° 50' East Longitude, along the mainland to the east of Cape Kanin Nos between 43° 17' and 51° East Longitude, and around the shores of Kolguyev Island. The agreement was concluded for a period of five years and came into force as soon as instruments of ratification were exchanged. The exchange took place on 12 March 1957.

In 1961 the Soviet Union, in a special note, informed the Government of Great Britain of its intention to denounce the agreement and that, in accordance with

Art. 3 of that agreement, the agreement would become void in one year, i.e., on 12 March 1962. Thus on 12 March 1962 British ships lost their right to fish in the Soviet territorial sea.

Agreements concluded between the USSR and Norway are of great importance in determining the navigation and fishing regime in this region.

The USSR and Norway concluded a treaty on trade and navigation on 15 December 1925. This treaty stipulated that Norwegian ships in the White Sea and in the territorial sea of the USSR in the Arctic Ocean would have the same rights with respect to hunting sea mammals, without any restrictions or exceptions of any kind, as had been, or would be, granted to a third State. So far as fishing in these same areas is concerned, Norwegian ships will enjoy the most-favored-nation regime, since this involves privileges which were, or could be, granted under the treaty.

On 1 January 1957, an agreement between these two countries concerning cooperation in rescuing those in distress and searching for people missing in the Barents Sea[2] came into force. The search and rescue services of

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2. The agreement was signed in Oslo on 19 October 1956.

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both States must render every assistance which each finds expedient in each individual case in regard to saving those in distress and searching for persons missing in the Barents Sea, regardless of nationality. The search and rescue services of both countries receive distress signals on frequencies of 500 kc (600 meters) and 2182 kc (138.5 meters), in accordance with effective international rules governing transmission and reception of distress signals.

The Soviet Union will use the radio station in Murmansk, call sign UDT, while Norway will use the radio station in Vardo ("Vardo Radio"), with the call sign LGV, for radio communications between the search and rescue services of the two countries.

Norway, in an official note, advised that the Norwegian search and rescue service will, upon request of

the Soviet search and rescue service, render assistance if Soviet ships are in distress in the Norwegian Sea. The agreement was concluded for a period of three years with the stipulation that if neither side denounces the agreement within six months of the expiration of the three-year period, it will remain in force for an additional year, after which it will be extended annually if neither side denounces it within six months of the expiration of the current effective date.

On 22 November 1957 the Governments of the USSR and Norway signed an agreement in Oslo on measures to regulate the sealing industry and to protect seals in the Northeast Atlantic Ocean.

The region covered by this agreement encompasses the waters of the Greenland and Norwegian Seas, together with the Denmark Strait and the Jan Mayen Island area and the Barents Sea. It was also understood that after the parties ratify this agreement the concession granted by the USSR to a group of sealers of the Ålesund Navigation Union in 1926 would no longer be in force.

On 9 December 1959 the USSR and Norway concluded an agreement on the procedure for handling claims concerning the destruction of fishing gear. Commissions were established in Moscow and Oslo to review such claims. Demands for indemnification are reviewed by the commission wherever the respondent is located.

In accordance with the fisheries agreement concluded on 16 April 1962, the USSR granted to Norwegian fishermen the right to fish in Soviet territorial waters in the Varanger Fjord area until 31 October 1970. Fishing is permitted at a distance of 6 to 12 miles from the shore in a zone bounded on the south by a line running along the Soviet coast at a distance of 6 miles from shore, on the southeast by a line running within 6 miles of the baseline for measuring the Soviet territorial sea, and running from the prominent cape at the entrance to Dolgaya Shchel' Bay through the northwestern tip of Bol'shoy Aynov Island to Cape Nemetskiy on the Rybachiy Peninsula, and on the northeast by a line connecting Cape Nemetskiy with Cape Kibergnes.

The Norwegian Government in turn permits Soviet fishing vessels to fish in the Norwegian fishing zone between 6 and 12 nautical miles from the baseline from which the territorial sea is measured. In the Andenes, Vesterålen, Grimsbakken and Fugløybanken areas, ships of the Contracting Parties can fish only at times established by the treaty and only with fixed and hand gear.

The regime of the Northern Sea Route was determined by a series of acts by the Soviet Government. Since the Northern Sea Route, as the most important main route created by the efforts of the Soviet Union, differs in principle from all other waterways, it is under her complete sovereignty. This route has long been under the jurisdiction of the Main Administration for the Northern Sea Route, which was established by decree of the Council of People's Commissars of the USSR on 17 December 1932, incorporated into the Ministry of the Merchant Marine of the USSR. The route is presently subordinate to the Main Navigation Administration of the Ministry of the Merchant Marine of the USSR.

The sovereign rights of the USSR in the Arctic sector stem from the enormously effective economic, organizational and scientific research activities of the USSR in mastering the Northern Sea Route, from the historical fact of discovery, from research on the polar seas and islands by Russian navigators, and also from the special geographic and climatic conditions of this region. The seas through which the Northern Sea Route passes (the Kara, Laptev and East Siberian) are in fact broad, shallow bays with specific ice conditions. Therefore, they are, in the opinion of Soviet international lawyers, similar to what international law refers to as "historic bays," and should be considered as inland waters of the USSR.

The majority of straits through which the Northern Sea Route passes lie within the territorial sea of the USSR. These straits include Karskiye Vorota, Yugorskiy Shar, Shokal'skiy, Vil'kitskiy and a number of others. Dmitriy Laptev and Sannikov Straits are regarded as belonging historically to the Soviet Union. They are never used for international shipping, and in view of specific natural conditions and frequent ice jams, the legal status of these straits differs sharply from that

of all other straits used for international navigation.

In this regard, passage of any foreign warship through the Northern Sea Route can only take place with prior authorization from the Government of the USSR, as provided for in the Rules Governing Visits to the Territorial Sea and Ports of the USSR.

Passage of merchant ships is free but, in view of the extremely complex ice navigation situation, in August 1965, the Ministry of the Merchant Marine of the USSR, in order to ensure safety of navigation, made it mandatory for all ships passing through Vil'kitskiy and Shokal'skiy Straits to do so under icebreaker convoy and with pilots, and developed special rules governing the procedure and conditions for such convoys.3

3. See "Notices to Mariners," 1965, No. 31, P. 10.

The sea route which most resembles the USSR's Northern Sea Route is the one along the Norwegian coasts, "Indreleia," created by Norwegian efforts, and recognized by the International Court as its inland waters.4

4. For details on the International Court decision see A. N. Nikolayev: "The Problem of Territorial Waters in International Law," Moscow, State Law Publishing House, 1954, pp. 117-132.

Navigation on the Northern Sea Route is possible only with a convoy of icebreakers, using pilots well acquainted with the route, and in accordance with rules established for this route. Such rules have been established for foreign ships proceeding to the port of Igarka, for example.

Norwegian law. Under Norwegian law, the breadth of the territorial sea has been set at 4 nautical miles. Because of its indented coastline, Norway used the method of baselines to measure its territorial sea. The basic documents used to establish baselines are the Royal Decree of 12 July 1935, supplemented by the Decree of 10 December 1937, and the Decrees of 18 July 1952 and 17 October 1952.

The Decree of 12 July 1935 makes a number of references to the Royal Decrees of 22 February 1812,[5] 16 October 1869,[6] 5 January 1881[7] and 9 September 1889.[8]

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5. The Decree of 22 February 1812 points out that "in all cases in which the question of determining the limits of our territorial sovereignty at sea arises, this boundary must pass at a distance of a conventional league from the island or islet most distant from dry land over which the sea does not flow."

A league equals 7,420 meters, i.e., 4 nautical miles (+12 meters).

6. A line delimiting the territorial sea in the Sannderm region was established under the Decree of 16 October 1869. This line was drawn between two points jutting into the sea, 26 miles apart.

7. The Decree of 5 January 1881 prohibited whaling for five months out of each calendar year "along the Finmark coast within a maximum distance of one geographical mile from the shore, such distance measured from the most distant island or islet over which the sea does not flow." This same Decree established a prohibition against whaling in the Varanger Fjord region.

8. The Decree of 9 September 1889 established the territorial boundary in the Romsdal and Nordmor region using four straight lines 14.7, 7, 23.6 and 12.6 nautical miles in length.

Norway published the coordinates of the points through which the baselines pass.

In 1961, Norway sent notes to all States concerning the change in the boundary of the fishing zone which, as of 1 September 1961, was established at a distance of 12 nautical miles parallel to the Norwegian baselines along the entire Norwegian coast, not including the Skagerrak, and bounded on the west by a straight line drawn from Lindesnes light toward Hansholmen light in the Jutland region (136° from Lindesnes light).

The region is further bounded by a straight line drawn from the point of intersection of the Norwegian and Soviet territorial seas (69° 58' 43.74" N., 31° 06' 42.41" E.) through the middle of a straight line between Cape Nemetskiy and Cape Kibergnes (70° 07' 13.51" N , 31° 30' 46.55" E). The note also emphasized that the expansion referred only to the fishing boundary. The limits of the territorial sea, as before, are at a distance of 4 nautical miles from the baselines.

Royal Resolutions of 9 February and 6 April 1962, which established closed sea areas along the Norwegian coast in the territorial sea, became effective on 1 August 1962. Foreign ships displacing more than 50 GRT are prohibited from navigating in these areas without a Norwegian pilot. The points of entry into the restricted areas from the sea and the routes such ships are to follow in these areas were also established.

Norwegian prohibited zones were announced in "Notices to Mariners," published by the Hydrographic Service of the Soviet Navy.

In announcing permanent prohibited zones along practically the entire Norwegian coast, Norway thereby violated the 1958 Convention on the Territorial Sea and the Contiguous Zone, which permits only the temporary establishment of prohibited zones in the territorial sea.

A 10-mile customs inspection zone was established in Norway under a law of 17 July 1922. The procedure for visits by warships to Norwegian inland and external waters and ports was established under the Rules Governing Visits by Foreign Warships and Military Aircraft to Norwegian Territory in Peacetime, published in March 1951. Inland Norwegian waters are defined as ports and entrances to ports, bays and fjords, as well as Norwegian waters between Norwegian islands, islets and skerries not permanently under water. External territorial waters are defined as sea waters extending from the shoreline, from the baselines or from the boundaries of inland waters seaward for a distance of 4 nautical miles.

Foreign warships may call in Norwegian waters only after having received permission through diplomatic channels.

The following exceptions may be made:

a) warships engaged in innocent passage through external territorial waters, without stopping or anchoring, do not require permission for such passage;

b) vessels designed exclusively for exercising control over fishing, neither calling at nor passing through military port areas, need only send advance notification through diplomatic channels no later than seven days before calling in the control zone;

c) warships clearly in distress. It is mandatory that such warships communicate their arrival to the shore patrol or port authorities as quickly as possible.

The law provides that no more than three warships may sojourn in Norwegian waters at the same time. However, the Norwegian rules grant privileges to warships of the NATO countries. Article 1 of the Rules stipulates that "rules governing visits by foreign warships and military aircraft to Norwegian territory in connection with joint defensive maneuvers are approved by special resolution of the Ministry of Defense in each individual case according to the nature and purpose of the maneuvers."

Appendix XIII

REGULATIONS OF 19 JANUARY 1951, LAID DOWN BY THE MINISTRY OF DEFENSE, RELATING TO ADMITTANCE OF FOREIGN NAVAL SHIPS AND MILITARY AIRCRAFT INTO NORWEGIAN TERRITORY IN TIME OF PEACE

1. Regulations are established for admittance of foreign naval ships and military aircraft into Norwegian territory in time of peace, in accordance with the proposed draft.

2. The Ministry of Defense, in cooperation with the Ministry of Foreign Affairs, is authorized to issue instructions on implementation of the Regulations referred to in Para. 1, if the need arises.

The Statute goes into effect on 15 March 1951, and simultaneously supersedes the Rules for Admittance of Foreign Naval Ships and Military Aircraft into Norwegian Territory in Time of Peace, approved under a royal decree of 19 August 1938.

The draft referred to in Para. 1 reads as follows:

Introductory Provisions

1. These Regulations for the admittance to, and sojourn in, Norwegian territory of Foreign warships and military aircraft are only applicable when both Norway and the foreign power to which the craft belongs are in a state of peace.

Regulations for the admittance of foreign warships and military aircraft into Norwegian territory associated with joint defense exercises, will be issued by the Ministry of Defense according to the nature and objective of the exercise in each individual case.

2. By warships and military aircraft is meant in these Regulations any ship (also auxiliary vessels) or aircraft which belongs to the forces (under military command) of a State whose government is recognized by Norway. Likewise any other ship or aircraft which demands immunity as a warship or military aircraft.

Foreign warships or military aircraft may also be enjoined at any time to leave Norwegian territory, without any reason, as stated in the preceding paragraph.

3. In these Regulations Norwegian territory means all Norwegian land territory and territorial sea and the air space above it.

4. In these Regulations Norwegian inland waters mean Norwegian ports, entrances to ports, bays and fjords, as well as such areas of Norwegian waters as are situated between Norwegian islands, islets and rocks, which are not constantly submerged, or situated between these and the mainland.

5. The boundaries of Norwegian naval base areas are established under a separate Royal Decree.

Regulations For Warships

6. With the exceptions which follow from Sec. 7, foreign warships are only admitted to Norwegian territory after having obtained permission thereto through diplomatic channels.

7. Exceptions to the provisions of Sec. 6:

a) Ships which only undertake innocent passage through the territorial sea. Stopping or anchoring may not take place, unless it is absolutely necessary for the safety of the ship.

b) Ships which are intended and equipped for fishery inspection duties only, and which do not call at or pass through naval base areas. Notification with information as required in Sec. 17, and information concerning the area where inspection is carried out must, however, always be submitted through diplomatic channels not later than 7 days before the intended call takes place.

For visits lasting more than 14 days, and for calls at a Norwegian port or in inland waters with less than 30 days interval, permission must be procured pursuant to the general provision in Secs. 6, 8, and 18.

c) Ships which are obviously in distress. Such ships shall as soon as practicable and in the quickest possible manner notify their arrival to the naval, police

or harbor authorities. If such notification cannot be sent immediately, it must be forwarded later through diplomatic channels.

8. Generally not more than three naval ships as a maximum, belonging to the same foreign power, should be given permission to stay simultaneously within each of the following two parts of the coast:

The frontier between Norway and Sweden - the district boundary line between Nord-Trøndelag and Nordland (N. Lat. 65° 10'). The district boundary line between Nord-Trøndelag and Nordland - Grense Jacobselv.

Foreign naval ships having left a Norwegian port or anchorage ought, as a general rule, not to be allowed to re-enter Norwegian inland waters within a shorter period than 30 days. These regulations are also applicable to naval ships which are used for fishery inspection duties, (see Sec. 7 b, second paragraph).

9. Submarines belonging to foreign powers shall in Norwegian territorial waters always be entirely on the surface, so that the whole conning tower and the deck with ordinary free-board is above the surface. They shall always have their national colors hoisted when they are not lying moored or at anchor in the port of call permitted.

Foreign submarines navigating submerged in Norwegian waters may be compelled by force to emerge.

10. In Norwegian inland waters a foreign naval ship must only avail itself of the seaward approaches and the ordinary fairway stipulated for the application for these rules (see Annex 1).

Without special permission the arrival of naval ships must only take place in clear weather, and south of N. Lat. 65°, only between sunrise and sunset, north of this latitude only at such time as is stipulated in each individual case by the Chief of Naval Command, Northern Norway. Within the boundaries of a naval base area speed is to be moderate.

11. As regards selection of place of anchorage and mooring, foreign naval ships shall comply with regulations issued by the Chief of the Naval Command concerned,

or the officer he authorizes.

In places where a harbor authority (harbormaster) is appointed, the Naval Command will act in concert with such authority.

Regulations for Military Aircraft

12. Foreign military aircraft are permitted to call at or pass over Norwegian territory only after having obtained permission through diplomatic channels.

13. From the provisions of Sec. 12 is excepted military aircraft:

a) carried on a warship during permitted stay in Norwegian territory (see, however, Sec. 15), or

b) in distress. Aircraft which has made a forced landing on Norwegian territory shall as quickly as possible report this to the nearest police authority, which must at once inform the nearest rescue center and military airport.

14. Military aircraft having obtained permission to call at or pass over Norwegian territory shall:

a) comply with international regulations in force for civil aviation and special regulations which, as regards the safety of flying, have been laid down for flying over and landing on Norwegian territory.

b) not without permission obtained in advance to fly over, or land in, areas in which Norwegian authorities have proclaimed prohibition against flying, and they shall also comply with other regulations in force.

c) not carry ammunition, bombs, rockets, photographic plates or film without having obtained permission thereto in advance.

d) submit to whatever control measures Norwegian authorities might deem necessary in order to ensure that the regulations are being complied with.

15. If military aircraft carried aboard foreign warships wish to fly over Norwegian territory, permission thereto must be applied for through diplomatic channels (see Sec. 17).

16. When a foreign military aircraft calls at a Norwegian port or airfield the captain of the craft shall comply with the regulations issued by the appropriate authority as regards anchoring or mooring accommodation, and with other orders and landing instructions.

General Provisions

17. Application for permission to call conformably with Secs. 6 and 12 shall, as a rule, be handed in, for ships at the latest 7 days, and for aircraft at the latest 72 hours, before the call takes place.

Application shall contain information as to the number of warships or military aircraft taking part in the visit, their type, the call sign of their radio sets, together with other information necessary for their identification, the track they intend to follow in Norwegian territory, the ports or anchorages (airfields) at which they wish to call, the hour of arrival and the duration of the visit.

For warships carrying aircraft, the type and number of aircraft must be stated.

If the exact hour of arrival cannot be stated in the application, it is to be communicated as soon as possible.

18. Generally the stay of a foreign warship or military aircraft in a naval base area ought not to be extended to more than 8 days, in the rest of the territory of the Kingdom not more than 14 days.

These regulations apply also to naval ships serving as fishery inspection ships (see Sec. 7 b, second sentence).

19. In or above Norwegian territory foreign warships and military aircraft are allowed to use their radio sets provided that they comply with:

a) the rules laid down in the International Telecommunications Convention in force, with appurtenant Radio Regulations, the regulations for the aeronautic radio service in force as established by the International Convention of Aeronautic Organization (I.C.A.O.) and special regulations for the use of radio sets in Norwegian territory in force at any time.

b) the rules laid down for the use of radio sets on board warships and military aircraft of foreign nonbelligerent powers when visiting Norwegian territory in time of peace (see Annex 2).

Foreign military aircraft at a Norwegian airfield (seaplane base) must use its radio sets only to the extent necessary for communication with the local ground control.

20. The crew of a foreign warship or military aircraft which is visiting Norwegian territory must not without special permission enter or come near areas where batteries, fortifications or other military establishments exist, or areas which are fenced in by military authority.

The same applies to persons who are carried on such warship or military aircraft without belonging to the crew of same.

21. It is prohibited for anyone on a foreign warship or military aircraft to prepare maps or charts or sketches of the ports, fairways, airfields, seaplane bases or other territory of the Kingdom.

It is also prohibited to prepare charts, sketches, photos or descriptions of Norwegian fortifications, or establishments, etc. belonging to these.

22. Without special permission obtained through diplomatic channels (see, however, Sec. 1, second par.) no foreign warship or military aircraft must undertake on Norwegian territory:

a) gunnery practice (except firing of salutes);
b) firing of torpedoes, firing of rifles, machine guns or other weapons;
c) exercises involving the laying and sweeping of mines;

d) exercises with searchlights;
e) the laying of artificial fog and smoke screens;
f) the dropping of bombs and other objects of a military nature;
g) other similar military exercises and manoeuvering in connection with combat exercises.

23. Armed forces must not be landed except on extraordinary occasions, and then only after obtaining permission from the military authority concerned.

Boats which belong to a foreign warship or military aircraft must in Norwegian waters not be armed or carry armed forces without obtaining advance permission according to the rules in the preceding paragraph.

Moreover, the crew shall, when going ashore (given shore leave or leaving the aircraft) be unarmed. Officers, petty officers and midshipmen may, however, carry such arms as belong to their uniform.

24. The commanding officer of a foreign warship or military aircraft shall comply with regulations relating to health, customs, pilotage, traffic, harbor, and the maintenance of order, issued by the authorities concerned. Moreover, on visiting naval base areas or military airfields regulations issued by the local military commander shall be complied with.

25. If the commanding officer of the crew of a foreign warship or military aircraft does not comply with the rules issued for the sojourn of ships and aircraft in Norwegian territory, they shall be made aware of it by military authorities concerned on the spot or in the district of command, and enjoined to comply with these rules.

If there is no military authority on the spot, such request may be made directly from the local civilian authorities, provided the question relates to infringement of the regulations mentioned in Secs. 11, 24 and 16).

If the request is not complied with, the warship or military aircraft may, through military authorities, be enjoined to leave Norwegian territory immediately or at least within 6 hours.

Annex I

LIST OF PERMITTED PASSAGES INTO PORTS AND FAIRWAYS FOR FOREIGN WARSHIPS IN NORWEGIAN INLAND WATERS

(Sec. 10 of the Regulations)

A. Seaward Approaches to Naval Base Areas

1. The main passage between Lille Faerder and Torbjornskjaer is to be used to approach the Oslofjord naval base area.

2. The main passage between Okso and Gronningen is to be used to approach the Kristiansand naval base area.

3. The passage between Kvittingsoyene and Karmoy is to be used to approach the Stavanger naval base area.

4. Either the Korsfjord or the passage through the Holmengrå Fjord is to be used to enter the Bergen naval base area.

5. Either Gripholen or Frohavet must be used to approach the Trondheimsfjord naval base area.

6. The Narvik, Harstad and Tromso naval base areas should be approached through:

Vestfjord to visit Narvik;
Andsfjord to visit Harstad;
Malangen or Lopp Havet to visit Tromso.

7. Bussesundet is to be used to approach the Vardo naval base area.

B. Fairways in Norwegian Inland Waters

Oslofjord from Faerder and through the main fairway to Oslo. Main approach from the sea to cities on the Langesundfjord to Kragero and Arendal.

The passage from Uksø to the port of Kristiansand.

The steamship route from Haugesund to Bergen via Bømmelen, Langenuen and Vatlestrømmen.

The steamship route from Skudenesfjord to Stavanger.

From Bergen to Sognefjord via Hjeltefjord.

The main passage to Trondheimsfjord from Gripholen and Frohavet.

From Andsfjord through Vågsfjord to Harstad.

From the entrance to Hekkingen via Malangen and Rystraumen to Tromsø and the main passage through Gretsund and Fugløyfjord to Lopp Havet.

From Lopp Havet through Sørøysund and then the steamship route through Rolvsøysund, Breisund, Måsøysund and Magerøysund to Sverkholt Havet.

C. Basic Provisions

Under special circumstances, the Ministry of Defense may also grant permission to use other passages in the inland waters beyond areas surrounding naval bases.

Annex 2

RULES GOVERNING THE USE OF RADIO STATIONS ON BOARD FOREIGN WARSHIPS AND FOREIGN MILITARY AIRCRAFT OF NONCOMBATANTS DURING THEIR SOJOURN IN NORWEGIAN TERRITORY

(Sec. 19 of the Regulations)

A foreign warship or military aircraft wishing to use shipboard radio equipment during sojourn in a Norwegian port or airfield where there is a radio station (see List published by the Telegraph Administration) must first ask permission of the person in charge of this radio station, who indicates the hours during which this equipment may be used.

At the time of this request, which can be made by radio, the desired frequency must be indicated.

Foreign military aircraft and warships may use their radio equipment without restriction in other Norwegian ports and waters. However, communication must be broken off immediately if requested by the Telegraph Administration, one of the main defense commands or radio stations under the jurisdiction of these authorities.

3. National Boundary of the USSR in the Theater

Under the peace treaty with Finland in 1947, the Pechenga area, together with the city of Pechenga (Petsamo) was returned to the Soviet Union. In the process,

the USSR acquired a common boundary with Norway. The land boundary with Norway was restored along the previous boundary line between Finland and Norway. The boundary was demarcated in 1947.

An agreement was signed between the USSR and Norway on 15 February 1957 in Oslo concerning the sea boundary in the Varanger Fjord, which runs along a straight line from boundary marker No. 415 (sea buoy), which is the terminus of the land boundary, to a point where the outer limits of the Soviet and Norwegian territorial seas intersect.

Neither of the High Contracting Parties may extend its territorial sea beyond a conventional straight line drawn from the point of intersection of the outer limits of the Soviet and Norwegian territorial seas to a point on the median line between Cape Nemetskiy and Cape Kibergnes (on charts this is designated by a dotted line).

The establishment of a well-defined boundary in the Varanger Fjord is a step toward the maintenance of good relations between the Soviet Union and Norway.

4. Legal Status of the Spitsbergen Archipelago. The Spitsbergen Agreement

The Spitsbergen archipelago is located north of the Arctic Circle and is washed by the waters of the Arctic Ocean and the Barents and Greenland Seas. In view of the fact that the warm currents of the Gulf Stream flow along the western shores of the archipelago, it is quite easy for ships to call there. The archipelago has an area of approximately 67,000 km^2. The largest islands are West Spitsbergen (39,400 km^2), North East Land (14,500 km^2), Edge (5,000 km^2), and Barents (1,400 km^2). Over 80% of the total area is covered with perpetual ice. Natural conditions are relatively favorable on the island of West Spitsbergen, which contains large coal deposits. The waters washing the archipelago and the somewhat distant Bear Island contain large fish stocks. There is also a sealing industry in these areas.

The Spitsbergen archipelago was discovered by Russian inhabitants of the White Sea area who established permanent settlements there, spent several winters on its islands and engaged in fishing. The Russians named the archipelago Grumant. Russian inhabitants of the White Sea area have been continuously engaged in fishing in Spitsbergen since the 18th Century.

At the urging of M. V. Lomonosov, Russia was the first to begin scientific investigation of the Spitsbergen archipelago. The first scientific expedition, under the direction of Russian Admiral Chichagov, was organized in 1764-1765 to study Spitsbergen.

For a long time Spitsbergen was regarded as nobody's territory, but Bear Island, a part of this archipelago, was actually a Russian island.

The attempt by the United Kingdom of Sweden and Norway to annex the archipelago in 1871 provoked decisive protests from other countries, including Russia. In 1872 the United Kingdom of Sweden and Norway repudiated this effort, and by agreement with Russia Spitsbergen was officially declared "nobody's" territory, the resources of which could be developed by citizens of any State. But toward the end of the 19th Century, when coal production began on Spitsbergen, the archipelago began to attract considerable attention by States interested in exploiting its resources.

In 1907 negotiations were conducted between Russia, Norway and Sweden on the conclusion of a special convention to determine the legal status of Spitsbergen and to establish rules governing the exploitation of its resources.

A conference was convened for this purpose at Kristiania (Norway) in 1914, with the participation of Belgium, Denmark, France, Russia, Holland, Great Britain Norway, Germany, Sweden and the United States. The neutralization of Spitsbergen was also discussed at this conference. However, the work of the conference was interrupted by the outbreak of World War I.

At the Paris Peace Conference the Spitsbergen Treaty was signed on 9 February 1920, by Great Britain, Denmark, France, Norway, Italy, The Netherlands, Sweden, the United States and Japan.

This treaty radically altered the international status of Spitsbergen, since it recognized the "full and absolute sovereignty of Norway" over the entire archipelago, including Bear Island and all islands located between 10° and 35° East Longitude and between 74° and 81° North Latitude.

The imperialist States, and particularly the Entente Powers, exerted all of their influence to exclude the young Soviet State from the nations participating in the discussion and signing the treaty.

These acts provoked a justified protest from the Soviet Government, since a resolution of the Spitsbergen problem arrived at without participation of Russia as the first State to conquer the archipelago, and therefore with economic and other interests in this area, violated the basic principles of international law.

Having recognized the sovereignty of Norway over Spitsbergen, the Paris Peace Treaty established a number of exceptions to this sovereignty. The Treaty stipulated that ships and citizens of the High Contracting Parties may engage in fishing, on an equal basis, in the territory of the archipelago and in the territorial sea. They were granted equally free access to and sojourn in Spitsbergen, including the right to call at the ports of Spitsbergen and to engage in all types of maritime, industrial and commercial operations. Citizens of the States participating in the Treaty were treated the same as Norwegian citizens with respect to import, export and transit (Art. 3). Radio stations established by Norway on Spitsbergen were declared open on an equal basis to all ships of the High Contracting Parties. For citizens of the High Contracting Parties a regime of equality was established with respect to proprietary rights, including the right to engage in mining. Under this treaty, Norway was compelled to introduce a mining code on Spitsbergen, excluding any type of privilege, monopoly or preference in favor of any of the High Contracting Parties, including Norway herself.

The Paris Treaty provided for demilitarization and neutralization of Spitsbergen. Norway was obligated not to establish or to permit establishment of any naval base on Spitsbergen, to establish any fortifications in these areas, or to ever use these areas for military purposes.

Thus prohibition of the use of Spitsbergen for military purposes meant first of all that it was to be excluded from any possible theater of combat operations or used as a base for the conduct of military operations. However, there are no guarantees that these provisions of the treaty will be observed. The imperialist States were not interested in such guarantees, since Spitsbergen, due to its strategic location, can be used for hostile purposes, particularly against the Soviet State.

In signing the treaty, it was already evident that without the participation of Russia the legal status of the archipelago could not be resolved once and for all. Therefore, Art. 10 of the Treaty states that after recognition of the "Russian Government" by the participants to the Treaty, the latter will be invited to accede to the Treaty.

The Soviet Union recognized the sovereignty of Norway over the Spitsbergen archipelago in 1924 with the establishment of the diplomatic relations with Norway. The USSR acceeded to the Paris Treaty on 27 February 1935. In 1931 and 1932 the Soviet Union bought two areas of Spitsbergen containing coal deposits, with the right to produce coal and other minerals.

Before the First World War, the USSR annually produced about 400,000 tons of coal out of a total annual production for the archipelago of 600,000-650,000 tons. The northern regions of the USSR, as well as ships of the merchant fleet navigating in the north, were supplied with coal produced in this area.

During the Second World War, Hitler Germany, occupying Norway, also seized the Spitsbergen archipelago and converted several of its islands into a base for attacks against ships passing through this area. Through shelling by warships and aerial bombardment the Hitlerites destroyed the primary coal mines established on Spitsbergen by the Soviets. Germany flagrantly violated Art. 9 of the Paris Treaty, which called for neutralization and demilitarization of the archipelago.

In the light of this, the Soviet Government approached the Norwegian Government in the fall of 1944 with the proposal that the Paris Treaty be reviewed, since it was concluded without participation of the

Soviet Union and without taking into account her security and economic interests. Norway accepted these arguments and in April 1945 a provisional declaration was signed with respect to the need for joint defense of the Spitsbergen area. This decision was consistent with the interests and security of both States and was aimed at improving the good relations between them.

Upon conclusion of the Second World War, Norwegian ruling circles did everything in their power to delay review of this important issue, and upon entry into the aggressive NATO bloc they renounced the obligations they had agreed to. Moreover, Norway began to violate the Paris Treaty, using the Spitsbergen area for military purposes. In 1949 the Norwegian Navy conducted combat exercises in the waters around Spitsbergen.

The NATO countries, implementing their plans for conversion of the Arctic Basin into a strategic theater of military operations, threatening the northern regions of the USSR, attempted repeatedly to include the archipelago in their unbroken chain of military bases in the north. Under this plan, the Norwegian Government adopted a resolution on 19 January 1951 concerning participation of Norway in the creation of a joint command and joint armed forces for the Atlantic Pact nations, according to which Norwegian territory, including Spitsbergen and Bear Island, were in effect placed at the disposal of the NATO military command.

In a note to the Government of Norway on October 15, 1951, the Soviet Government lodged a firm protest against these activities on the part of Norwegian authorities. It was stated in the note that "such activities on the part of the Government of Norway are in direct violation of the multilateral Paris Treaty on Spitsbergen" and "constitute a violation of the status of these islands, according to which the aforementioned islands must never be used for military purposes."

The Soviet Government also emphasized the special interests of the USSR in this region, economic as well as security. In a note of reply, the Norwegian Government declared that it would observe the status of Spitsbergen and Bear Island.

However, despite these declarations, the NATO nations subsequently began to establish bases on Spitsbergen, to conduct various types of exploration and to construct various types of stations, such as the telemetering station of the European Cosmic Research Organization near Ny-Ålesund in the Kongsfjorden. Thus in 1959 a Norwegian expedition was sent to Spitsbergen to study the possibility of constructing airfields there "with airstrips up to 3000 m in length, capable of accommodating modern jet bombers." According to data of the Western press, this expedition was financed by the U. S. Department of Defense.

In a note of 26 October 1960, the Soviet Government requested the Norwegian Government to explain whether "the above information on plans for the construction of airfields on the Spitsbergen archipelago corresponds to the facts."

In its note of reply, the Norwegian Government said that "Norwegian authorities have no plans whatever at the present time for the construction of airfields on Spitsbergen or cooperation in same." Moreover, the Norwegian Government was compelled to declare that it "has undertaken the necessary steps to stop foreign financing and all subsequent work in this area," thereby acknowledging that such work was in progress.

Strict observance of the provisions of the Paris Treaty of 1920 on the neutralization and demilitarization of the Spitsbergen archipelago and Bear Island is of great importance for the strengthening of peace and security in this area.

The Soviet Union is interested in strict observance of these principles. Soviet organizations in Spitsbergen are mining coal, supplying some of the northern regions of the USSR. Soviet fishing vessels are constantly engaged in fishing near the archipelago and use its bays for shelter in gales. The first Soviet polar geophysical institute was established in the archipelago and is engaged in intensive and systematic Arctic research. The westward outlet to the ocean past Spitsbergen and Bear Island is of unusually great importance to the Soviet Union and to its security.

CHAPTER II

INTERNATIONAL LEGAL REGIME OF THE BALTIC SEA THEATER

1. Characteristics of the Theater

The Baltic Sea theater is essentially closed. The Baltic Sea is situated somewhat apart from the most important maritime communications routes and is a regional waterway. The baltic Sea routes are of economic importance primarily to the Baltic States.

The Baltic Sea theater is connected to the high seas through the Baltic Straits (Great and Little Belt and The Sound) and the Kiel Canal, whose regime of navigation for warships and nonmilitary vessels is regulated under special legal rules.

A number of international legal agreements are in effect within the Baltic Sea theater, aimed at the establishment and maintenance of good relations between the Baltic nations.

The Soviet Union, the Polish People's Republic, the German Democratic Republic and a number of other peaceloving Baltic nations are attempting to transform the Baltic Basin into a peace zone. However, aggressive circles of the imperialist States (the Federal Republic of Germany and the United States) are attempting to transform the Baltic Sea into an area of provocations against the Socialist countries. The navies of the NATO powers conduct annual maneuvers in the Baltic Straits.

The so-called Joint Baltic Command was created toward the end of 1961, and revanchist circles of the Federal Republic of Germany are using it to establish control over the Baltic Straits.

2. Regime of the Water Expanse of the Baltic States

Regime of the coastal waters of the Polish People's Republic.

The coastal waters of the Polish People's Republic consist of inland waters and the territorial sea.

The inland waters of Poland consist of the following:

1. Part of Nowovarinskiy Zaliv and Stettiner Haff, enclosed by a broken line connecting the mouth of the Myslibors River with the mouth of the peat canal passing through the following geographical coordinates:

53° 44' 18" North Latitude, 14° 16' 26" East Longitude
53° 45' 24" North Latitude, 14° 16' 08" East Longitude
53° 46' 30" North Latitude, 14° 17' 03" East Longitude

2. Part of the Bay of Danzig, enclosed by a line connecting Cape Hel with the Polish-Soviet national boundary (approximately 54° 27' 5" North Latitude, 19° 38' 5" East Longitude).

3. Part of Vislinskiy Zaliv, west of a line connecting the Polish-Soviet land boundary (approximately 54° 26' 6" North Latitude, 19° 48' 4" East Longitude), with the point where this boundary meets the Baltiyskaya Kosa (approximately 54° 27' 2" North Latitude, 19° 39' East Longitude).

4. The waters of ports and roadsteads.

A 6-mile territorial sea was established for Poland in 1962, measured from the low-water line on the mainland and from the outer limits of the inland waters, from straight baselines drawn between the outermost points on the coast.

The regime of the inland waters and territorial sea and special zones of the Polish People's Republic was established under a decree of 23 March 1957 on protection of the national boundary of the Polish People's Republic and also under a directive issued by the Minister of National Defense on 29 March 1957, based on the former.

Foreign warships may pass through the territorial sea of Poland and call in her inland waters on the basis of prior authorization, obtained from the Minister of National Defense with approval of the Minister of Foreign Affairs. The authorization request must contain the following information: name of the warship, its dimensions, date and time of proposed arrival, purpose of the call and proposed port or roadstead to be visited.

Authorization is not required for warships carrying a Chief of State or his official representative, for warships comprising an escort of honor, or for warships in danger or requiring assistance (emergency call).

Overflights by foreign aircraft above the territorial sea are permitted only with the approval of appropriate Polish authorities.

Regime of the coastal waters of Finland. The regime of the coastal waters of Finland was established under a law governing the limits of the territorial sea of Finland, passed on 18 August 1956, a law of 5 March 1965 amending this statute, and a law of

7 May 1965 concerning application of the law governing the limits of the territorial sea.

The coastal waters of Finland consist of the territorial sea and inland waters.

The inland waters of Finland consist of bays and skerries. All of the bays and waters of skerries of Finland are recognised as inland waters, regardless of their entrance width. The boundaries of the inland waters consist of baselines from which the territorial sea is measured.

The territorial sea of Finland is regarded as that part of the sea immediately contiguous to the land territory and islands of the country.

Islands, skerries and rocks protruding from the water or groups formed by them may have their own territorial sea. The breadth of the territorial sea of Finland is 4 nautical miles. The sea boundary of the territorial sea of Finland at several points has been established under international agreements.

Under Finnish law there are four types of calls and navigation by foreign warships in the waters of Finland:

1) a call by warships to Finnish waters in order to visit Finnish ports or bases. Authorization for this purpose must be obtained from the Government of Finland through diplomatic channels at least 8 days in advance of the proposed visit to Finnish waters.

Foreign warships must communicate by radio the exact time of arrival in the port of destination the moment they approach the Finnish territorial sea.

2) a call by foreign warships in Finnish waters and passage through them beyond fortified areas and other carefully designated areas without calling at the ports or bases of Finland. This is called "innocent" passage and does not require special approval.

3) "an emergency call" by foreign warships, also made without special permission, but in this case the warship must immediately inform military officials of the port, police officials or officials of the frontier guards of his call; otherwise this information must be communicated later through diplomatic channels.

4) a call by a foreign warship (and escort vessels) carrying the Chief of a foreign State or chief of a diplomatic mission accredited to the Government of Finland. No special permission is

needed for such a call if there are not more than 2 escort ships or if the escort vessels do not exceed a total of 10,000 tons.

In all cases other than "emergency calls" and "innocent passage" without visiting Finnish ports, notification must be given through diplomatic channels a day in advance of the proposed call in Finnish waters.

Foreign submarines may not lie surfaced, submerge or navigate under water in Finnish waters without the approval of the naval or military commander.

Foreign warships in the Finnish territorial sea are required:

a) to use only fairways established by naval authorities and with the aid of a pilot;

b) to observe current Finnish sanitary, pilot, customs, port and other rules and regulations;

c) to observe rules governing the use of radio equipment and, if requested by the commander of a fortified area, police or postal and telegraph authorities, to discontinue use of same;

d) to call in fortified areas, if authorized, between sunrise and sunset, cruising there at slow speeds;

e) to comply with instructions of Finnish authorities in selecting an anchorage or mooring site;

f) to refrain from depth measurement[1], taking photographs or conducting underwater operations, firing, minelaying, minesweeping and other types of exercises;

g) to prevent the launching of aircraft and other devices for aerial reconnaissance without the approval of the commanding officers of the military, naval and air forces or the chief of staff of the navy or air force;

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1 An echo depth sounder may be used under supervision of a liaison officer or pilot.

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h) to prevent the movement of launches belonging to warships, with armed crews, except for military funerals, conducted with the approval of the garrison commander or police officials.

Violation of the above regulations by foreign warships will produce a warning, and if repeated the foreign warships may be asked to leave these waters under the threat of military reprisals.

Demilitarization and neutralization of the Åland Island Zone. The "Åland Island Zone" includes all islands, islets, skerries and rocks in the waters demarcated by lines established under an agreement between the USSR and Finland of 11 October 1940.

The 3-mile territorial sea of the Åland Islands is measured from straight baselines at parallels 60° 41' and 59° 27' north and south of the islands respectively and, to the east and west, from straight lines connecting successive geographical points with accurately determined coordinates.

Because of their strategic location, the Åland Islands, which control the entrances to the Gulf of Bothnia and the Gulf of Finland, have been the object of treaty negotiations since the beginning of the 19th Century.

Under the Treaty of Friedrecksharm of 17 September 1809, the Åland Islands were ceded to Russia. Under the convention of 30 March 1856, signed after the war of 1853-1855 by Russia, France and Great Britain, the Åland Islands were to be demilitarised and neutralised.

After Soviet Russia granted independence to Finland (31 December 1917), the Åland Islands became part of the territory of the Finnish Republic. In the peace treaty with Finland on 14 October 1920, the Soviet State again recognised the sovereignty of Finland over the Åland Islands.

Aggressive circles in Great Britain, France and other imperialist States attempted to use these islands to the detriment of the security interests of the Soviet State and attempted to solve the problem of the Åland Islands without her participation.

On 4 October 1921 Great Britain, Germany, France, Finland, Poland, Estonia, Denmark and Sweden signed a convention providing for demilitarization and neutralization of the Åland Islands, which reaffirmed and replaced the 1856 convention.

Since the 1921 convention was signed without the participation of the Soviet State, the Government of the RSFSR, in a protest

note on 15 November 1921, declared it "unconditionally nonexistent for Russia."

In 1939 aggressive circles in Finland attempted, with the aid of the League of Nations, to revoke the prohibition against fortification of the Åland Islands. Even though this attempt failed, Finland proceeded to remilitarize the Åland Islands and to construct military fortifications there. Fortifications on the islands and other military installations in the Åland Island Zone were subsequently used in the war against the USSR.

The Åland Island problem was not resolved on a new, bilateral basis until after the 1939-1940 war.

The regime of the "Åland Island Zone," established under the agreement of 11 October 1940, was designated to strengthen the security of the USSR and Finland and also to strengthen peace in the Baltic Sea. Under the agreement, Finland was compelled to demilitarize the Åland Islands and was prohibited from fortifying them or making them available to the armed forces of other States. This means that in the Åland Island Zone nobody is permitted to maintain or establish military, naval or other bases, or to possess or use any installations, devices or establishments designed for military purposes.

The Soviet Union was granted the right to maintain a consulate in the Åland Islands, whose jurisdiction, in addition to the usual functions, includes supervision of the observance by Finland of its obligation to demilitarize and neutralize the islands.

According to Art. 9 of the armistice agreement signed by the USSR and Finland on 19 September 1944, the agreement of 11 October 1940 on the Åland Islands was fully restored. The peace treaty with Finland signed on 10 February 1947 confirmed once again that the Åland Islands must remain demilitarized in accordance with the agreement still in force.

Appendix XIV

RESOLUTION AMENDING THE LAW GOVERNING THE LIMITS OF THE TERRITORIAL SEA OF FINLAND

5 March 1965
(Extract)

In accordance with a Resolution of Parliament, Secs. 1, 4, 7 and 8 of the Law Governing the Limits of the Territorial Sea of Finland, promulgated on 18 August 1956 (463/56), are amended as follows:

1

The territorial sea of Finland is defined as a belt of sea directly contiguous to the land territory of the State which, east of the Gulf of Finland, at the boundary with the USSR, near the Virolahti archipelago, is divided by the sea boundary of the State, established at the Paris Peace Treaty, signed on 10 February 1947 (690-691/47), and to the west, at the boundary with Sweden, by the national sea boundary passing through the Gulf of Bothnia near the Tornio archipelago, established after the Treaty of Friedrickshamn in accordance with a topographic description of the boundary and in accordance with an inspection of the boundary conducted in 1955-1957. The outer seaward limit of the territorial sea is the boundary of international waters, except for an area to the south and north of Market island, where the boundary consists of the national sea boundary established according to the aforementioned description of the 1811 boundary, as it was included in the agreement on demilitarization and neutralization of the Åland Islands signed on 20 October 1921 (64/22). Individual islands, skerries and rocks projecting from the water or groups formed by them may have their own territorial sea.

4

The points of departure referred to in the preceding Sec. 3 are selected:

1) so that they might be points located at a level corresponding to the mean water level, calculated on the basis of measurements of the water level made during the decade preceding the year in which this law went into effect, but in such a way that a point located below the aforementioned level but in any event at times visible may be taken as a point of departure, if a beacon or other structure which remains constantly on the surface of the sea is built on it;

2) so that their separation does not exceed twice the breadth of the territorial sea; and

3) so that the inland territorial sea has a maximum breadth.

The points of departure are checked at 30-year intervals.

7

The outer limit of the territorial sea from the southernmost point of the national sea boundary in the east passes at a distance of 4 nautical miles from the outermost point in the area located in the direction of a parallel to the south of the Haapasaari archipelago, in the direction of the eastern extremity of the boundary delimiting the territorial sea of Finland, established in the peace treaty signed in Paris on 10 February 1947 - the end point where it merges with the aforementioned boundary.

The outer boundary of the territorial sea, from the western extremity of the boundary delimiting the territorial sea of Finland and referred to above, runs perpendicular to the corresponding outer boundary referred to in Sec. 5, until it merges with it.

The last point of departure, which is opposite another reference point on the Swedish side, is located in the Tornio archipelago in the Gulf of Bothnia, on the territory of Finland.

Points of departure on the outer boundary of the inland territorial sea and their exact location are listed in the Resolution, which contains additional instructions, if needed, concerning application and execution of this law.

3. Regime of the Coastal Waters of Sweden

Under Swedish law,[2] the sea waters of Sweden are divided into inland and outer territorial waters.

2. Royal Decrees No. 501 and 502 of 8 June 1951.

The inland waters consist of the following:

a) lakes, rivers, canals;

b) ports (including naval); entrances to ports, bays and inlets, regardless of their entrance width; the naval ports of Sweden are Härnösand, Stockholm, Faerosund, Karlskrona and Göteborg; their limits are designated by lines connecting coordinates precisely indicated in the law;

c) the waters within or between large and small islands and skerries along the coastline which are not permanently under water.

In The Sound, to the north of a parallel passing through Klackshalen Light, only Swedish ports and their entrances are regarded as inland waters.

The outer territorial waters are defined as a belt of sea to a distance of 4 nautical miles, or 7408 meters, measured from the coastline or a line representing the outer boundary of the inland waters.

Navigation of foreign warships. Foreign warships may call:

a) at naval ports, closed fairways and in the

inland waters only after obtaining permission through diplomatic channels; unless otherwise provided in the authorization, a maximum of three warships of a single State may sojourn in the same area of the sea, naval port or inland waters not associated with naval ports;

b) in the outer territorial waters, in accordance with Law No. 366, which took effect on 1 July 1966, based on the right of innocent passage but only through The Sound. In all other places passage is possible only after special notification has been sent through diplomatic channels, with an indication of the time of passage.

Permission is not required for a warship:

a) carrying a Chief of a foreign State or his official representative;

b) escorting a warship indicated in Para. "a", but with a maximum of three warships belonging to the same power, unless some other permission is obtained through diplomatic channels;

c) in distress (emergency call).

A foreign warship in the inland waters of Sweden must follow courses and fairways indicated in the current "Notices to Mariners," and unless otherwise indicated must use the services of a pilot.3

3. Royal Decree No. 52 of 3 June 1951 closely regulates the pilot service and lighthouse tenders, who must inform the Coast Guard and the Ministry of the Navy whenever a foreign warship or military aircraft appears off the coast of Sweden. The pilot service is instructed to guide foreign warships in Swedish waters through fairways only if they are authorized to call at Swedish ports.

11

Submarines must be surfaced and must fly their national colors at all times, unless unusual circumstances prevent them from so doing.

Foreign warships and military aircraft may not remain in Swedish territory more than 14 days without special permission.

Appendix XV

ROYAL DECREE WITH RESPECT TO THE RIGHT OF FOREIGN WARSHIPS AND MILITARY AIRCRAFT TO CALL IN SWEDISH TERRITORY IN PEACETIME

8 June 1951

The Government of His Royal Majesty has adopted a resolution according to which, on the one hand, Art. 4, Par. 2, 3, 5 and 6, Arts. 6 and 7, as well as Art. 8, Par. 1, of the Decree of 21 November 1925 with respect to the right of foreign warships and military aircraft to call in Swedish territory in peacetime will be amended as indicated by following texts, and, on the other hand, Art. 5 of the aforementioned Decree becomes void.

PART I

Introductory Provisions

Article 1

The provisions of this Decree regarding the right of foreign warships and military aircraft to call in Swedish territory are applicable only when Sweden and the foreign power to which the warship or military aircraft belongs are in a state of peace.

Otherwise special provisions must be applied.

Article 2

Swedish territory is defined in the present Decree as Swedish land and sea territory and the air space above it.

PART II

Provisions Regarding Warships

Article 6

1. Foreign warships may call:

a) in waters which may not be associated with naval ports, after permission is obtained through diplomatic channels, provided that in certain special cases there was no other authorization;

b) in other Swedish territorial waters without permission; warships do not have the right to stop in these waters or anchor, unless required for the safety of the ship.

2. Authorizations provided for in Para. 1, a are not required for any warship:

a) carrying a Chief of a foreign State or his official representative;

b) escorting a ship referred to in Para. 1, a of this Article, but with the exception provided for in Article 7 with respect to the number of ships; or

c) ships in distress.

3. If a foreign military vessel in distress enters the territorial waters referred to in Para. 1, a or if such a ship stops or drops anchor in other Swedish territorial waters in a case provided for in Par. 1, b the master of the ship must inform the commanding officer of the naval district in question of his arrival as quickly as possible. This information will be communicated to personnel of the pilot service, lighthouse tenders or customs or coastal inspection personnel. If this communication cannot be made, it must be conveyed immediately through diplomatic channels.

Article 7

Unless the authorization obtained through diplomatic channels indicates otherwise, a maximum of three

warships of the same power may sojourn simultaneously in the same naval district, Swedish naval port, or in Swedish territorial waters not comprising part of any naval ports.

Article 8

1. When a foreign warship is in a Swedish naval port or in inland waters of Sweden not comprising part of any naval ports, the commanding officer of the warship must use only those passages and fairways indicated in an updated list of fairways and, in the absence of provisions to the contrary, in such a case must utilize the services of a pilot designated by the Swedish Government.

2. In calling at a port in Swedish territorial waters, foreign submarines must be surfaced and their national colors must always be visible, unless this is impossible due to unusual circumstances.

Article 9

During visits to a Swedish port by a foreign warship, the commanding officer of the warship, in selecting an anchorage or mooring site or with respect to other circumstances, must observe instructions issued by the commander of the naval district for each naval port, with the exception of Faerosund, where instructions are issued by the commanding officer of the coastal defense of Gotland, and instructions which are not issued by competent port authorities in naval ports.

Article 10

If the competent naval authorities referred to in Article 9 deem it necessary, they have the right, together with the commanding officer of the foreign warship, to develop more precise provisions with respect to the number of crew members of the warship entitled to shore leave in a naval port area or authorization for any other purpose, and also with respect to the hour and point at which the men embark and disembark.

PART IV

General Provisions

Article 14

In the application for permission, in accordance with Article 6 or Article 11, there must be an indication of the number of warships or military aircraft taking part in the visit, the type of vessels and aircraft involved and other data required for their identification, the proposed route through Swedish territory, the place or places they have decided to visit, the approximate date of the beginning and end of the visit and, for warships carrying aircraft, the number and type, and, for aircraft equipped with radio sets, the call signs for these airplanes in the event of radio communication.

If permission is obtained, the date of arrival must be communicated.

Article 15

Foreign warships and military aircraft may not remain more than 14 days without special permission, obtained through diplomatic channels.

Article 16

The commanding officer of any foreign warship or military aircraft in Swedish territory must observe directives issued by competent authorities with respect to sanitary service, pilot service, customs, trade and port regulations and regulations governing the social order.

Article 17

1. The following activities are prohibited on Swedish territory: mapping or hydrographic surveys or measurements aboard foreign warships or military aircraft or by their crews, with the exception, however, of

measurements which might be necessary to assure safety of the ship. It is also prohibited, without special permission, to fire guns, launch torpedoes or engage in other types of firing, minelaying exercises, minesweeping or other underwater operations or landing exercises. Detachments may be sent ashore for military funerals, and only under the aforementioned conditions, after permission is obtained from competent military officials.

2. Special decrees have been issued on the use of wireless telegraphy within the Kingdom.

3. Boats belonging to foreign warships or military aircraft on Swedish territory must not be armed, and must not transport personnel under conditions other than those specified in Para. 1.

4. Crewmembers of foreign warships and military aircraft on shore leave must be unarmed, although officers and NCOs may carry silent weapons as part of their uniform.

Article 18

1. If the commanding officer or a crewmember of a foreign warship or military aircraft does not observe the provisions of this Decree, this must be brought to the attention of the military authorities of the naval port indicated in Article 9 of the aforementioned Decree, to military authorities indicated in Article 13 of that Decree in the case of an air force base, and in all other cases to the senior military officers at the given point or, if there are no military authorities at that point, to civil authorities.

If this does not yield results, the warship or military aircraft is ordered by the aforementioned military or civil authorities, if the King so decides, to leave Swedish territory immediately or within 6 hours, even if the duration of the stay has not expired.

2. Foreign warships and military aircraft may be ordered, in accordance with Para. 1, to leave Swedish territory if the King so decides, even if the circumstances indicated in Para. 1 do not obtain.

This Decree comes into force the day after the day in which the aforementioned Decree, according to notification, is published and placed in the official register of Swedish laws and resolutions.

All parties to whom the present Decree is applicable must carefully observe its provisions.

8 June 1951
(Ministry of National Defense)

4. Regime of the Coastal Waters of Denmark

Danish sea waters consist of inland waters and the territorial sea.

The inland waters of Denmark include the following: harbors, harbor entrances, roadsteads, bays, and fjords, as well as areas of the territorial sea within and between Danish islands and reefs not permanently under water.

In the Great Belt and The Sound, Danish territorial waters consist entirely of harbors, harbor entrances, bays and fjords. In addition, closed waters consist of the following: Copenhagen Roadstead, bounded by clearly designated lines, Helsingör port and port area, Frederikshavn port and port area, and a number of other water areas, fjords, bays, etc.[4]

4. For more details, see Rules Governing Admittance of Foreign Warships and Military Aircraft to Danish Territory in Peacetime, 25 July 1951.

The outer territorial waters of Denmark consist of a belt of sea extending four nautical miles from the shoreline or the outer seaward limits of the inland territorial waters.

The following restrictions have been placed on passage of foreign warships through Danish waters and sojourn in them.

If passage through or sojourn in Danish waters by foreign warships extends beyond two days, prior notification must be given through diplomatic channels. Notification must be given at least 8 days prior to passage or sojourn.

Passage through or sojourn in the inland territorial waters of Denmark by foreign warships, as well as in Danish territorial waters in the Little Belt, is permitted after prior notification through diplomatic channels.

Foreign warships may visit or pass through the ports and port areas of Frederikshavn and Helsingor, as well as the roadstead and port of Copenhagen, if permission is obtained through diplomatic channels. In cases merely involving passage through Hollaenderdybet and Drogden, notification must be given through diplomatic channels.

Permission and notification are not required for ships in distress.

Permission may be granted to ships in distress for passage through closed inland territorial waters.

Passage through Danish waters within a single naval command (district) requires prior approval through diplomatic channels if it involves more than 3 warships of the same power or, irrespective of the number of ships, if they remain in Danish waters more than 4 days.

Passage of foreign warships through the outer territorial waters of Denmark is permitted without notification provided that passage of the warships does not require more than two days, and provided that not more than three warships are making passage.

Danish rules governing admittance of foreign warships and military aircraft to Danish waters have established an inequality between warships of the peace-loving Baltic States and warships of noncoastal States (NATO members), in violation of international law. Neither quantitative nor time limitations for sojourn in Danish waters have been established for military warships and aircraft of NATO members during joint, so-called defense exercises in Danish waters.

Foreign nonmilitary vessels enjoy the right of "innocent passage" through Danish territorial waters.

Nonmilitary vessels lying at anchor or passing through Danish territorial waters are subject to customs inspection, irrespective of whether or not they are proceeding to Danish ports or to the ports of another State. The breadth of the customs zone of Denmark is 4 nautical miles.

Under a law of 19 December 1951, fishing and maritime industry are prohibited in Danish territorial waters (3 nautical miles) and in the coastal waters of the Faeroe Islands within a 12-mile zone.

Trawling is likewise prohibited in the waters around Greenland. These waters are divided into inland and territorial waters with a breadth of 3 nautical miles, measured from straight baselines between the outermost points of islands, skerries and reefs at low tide.

In bays and fjords, 3 nautical miles are measured from a straight line drawn across the bay or fjord, at the point closest to the entrance where the breadth of the bay or fjord does not exceed 10 nautical miles.

Shrimp fishing is permitted in the territorial waters of Greenland.

Danish citizens have the right to engage in sealing and fishing on the territory and in the territorial waters of Greenland, as well as the right to process fish in the waters of Greenland and in the territory of Greenland.

Appendix XVI

RULES GOVERNING ADMITTANCE OF FOREIGN WARSHIPS AND MILITARY AIRCRAFT TO DANISH TERRITORY IN PEACETIME

25 July 1951

I. General Rules

1

The following Rules governing admittance of foreign warships and military aircraft to Danish territory are in effect in peacetime, in the absence of another agreement with a foreign power, i.e., if Denmark and the foreign power to which the warship or military aircraft in question belongs are in a state of peace.

Special provisions will be established to cover other conditions. The Rules also relate to ships belonging to a foreign power or used by that power as yachts or training ships outside the navy.

In time of joint military exercises, the Ministry of Defense establishes, in each individual case, the rules governing admittance to Danish territory of warships and aircraft participating in the exercises, in accordance with the nature and purpose of the exercises.

2

Danish territory is defined in these Rules as Danish land territory, Danish waters and Danish air space above them.

Danish waters are defined in these Rules as the territorial sea, consisting of inland waters and the outer territorial sea.

3

Danish inland waters are defined in these Rules as harbors, harbor entrances, roadsteads, bays and fjords, as well as part of the Danish territorial sea within and between Danish islands, spits and reefs which are

not permanently under water. In the Great Belt and The Sound, however, Danish inland territorial waters are confined to harbors, harbor entrances, bays, fjords and areas of the Great Belt and The Sound specially indicated in the second part of this paragraph and in Sec. 4.

In addition to the closed waters indicated in Sec. 4, the inland territorial waters consist of the following:

Copenhagen Roadstead, bounded on the north by a line from Saarbaek Harbor to the lighted and acoustic buoy to the east, along a line from the latter buoy to the northernmost point of Saltholm, from there along the west coast of Saltholm to the southernmost point of Saltholm; and bounded on the south by a line from the latter point to Drogden Lighthouse, from there to the "Aflandshage" marker, and from there along a line to the Sjaelland coast in the direction of Vallensbaek Church on Sjaelland Island.

Helsingør port and roadstead, bounded by 56° 03' N. from the coastline to the Lappegrund marker, from the Lappegrund marker to 56° 02' 6" N., 12° 3' 0" E., passing through this point to 56° 01' 7" N., a line from this point to 56° 01' N., 12° 37' E., and a parallel passing through this point to the coastline.

Frederikshavn port and port area, bounded by a parallel passing through Hirsholm Lighthouse from the coastline to the lighthouse, and from there by a line to 57° 25' 3" N., 10° 36' 0" E. (point 6 in course 35), through a meridian passing through this point to 57° 22' 0", and through a parallel passing through this point to the coastline.

The East Jutland fjords.

The waters between the southern part of Jutland and the islands of Brandsø, Bågø and Ærø.

The waters between the southern part of Jutland and the line Halk Hoved-Barsø east point-Tontoft Hanke.

Part of Sonderborg Bugt, which is bounded to the south by a line from Lille Borreshoved to "Heltsbanke" marker, from there to "Middelgrund" marker, and from there to the cape at Sønderby on Kegnæs.

Part of the water expanse to the south from Egernsund, bounded on the south by a line from the front Rinkenæs Lightouse to the "Egernsund" marker, and from there to the front Skodsbøl Lighthouse.

The waters between the Oksøer islands, and also between these islands and Sønderhav.

The West Jutland Fjords.

Odense Fjord.

The waters to the west and north of the line Hassensør-Samsø-Endelave-Bjørnsknude.

Nakskov Fjord, bounded on the northwest by the line Albuen Lighthouse-Tårs Vig.

The waters within the line Hov (on Langeland Island)-Vresen-Knudshoved (on Fyn).

Korsør Roadstead, bounded on the west by a meridian passing through Halsskov Odde, and on the south by 55° 19' N. Parallel.

The waters to the east of the line Halsskov-Musholm-Reersø.

Kalundborg Fjord, bounded on the west by a line the westernmost points of which are Rosnæs and Asnæs.

Bays and fjords in the Faeroe Islands.

4

Closed waters consist of the following inland waters:

Isefjord and the entrance to it, bounded on the west by the line Tyborøn Church-Agger Beacon, and on the east by the line Nordmandshage-Egensehage.

The waters of Smaaland with the following entrances: Agersø Sund, bounded on the west by the line Korsør-Omø Lighthouse.

The waters between Omø and Lolland, bounded on the west by the line Omø Harbor-Onsø.

Guldborg Sund, bounded on the south by the line Hyllekrog Lighthouse-Gedser Lighthouse. Grønsund, bounded on the southeast by the following lines: a parallel between Hestehoved Lighthouse and 12° 14' 5" E. Meridian.

Bøgestrom, bounded on the northeast by the following lines: a parallel passing through the rear Roneklint Beacon and a meridian passing through the northern cape of Ulvshale.

Als Sund, bounded on the south by Klinting Hoved and the northern part of the Vemmingbund.

Als Fjord, bounded on the north by the line Nordborg Lighthouse-Varnæs Hoved.

The waters to the south of Fyn, with the following entrances:

The waters between Langeland and Fyn, bounded on the north by a parallel passing through Hov Lighthouse.

The waters between Langeland and Aerø, bounded on the southwest by the following lines: a parallel passing through Ristinge Church and a meridian passing through Marstal Church.

The waters between Aerø and Lyø and the waters between Lyø and Fyn, bounded on the west by the line Skjoldnæs Light-Hornenæs.

5

Foreign warships may pass through or sojourn in Danish waters, but with the exceptions and restrictions indicated in the following paragraphs.

6

If passage through or sojourn in Danish waters involves more than two days, prior notification must be given through diplomatic channels. This notification, as well as the notification indicated in Secs. 7 and 8, must be given not less than eight days prior to the proposed passage or sojourn.

7

Foreign warships may pass through or sojourn in the inland sea, as well as in the Danish territorial waters of the Little Belt, provided that prior notification is given through diplomatic channels.

For fishery inspection vessels, belonging to States with which Denmark has concluded a fishing agreement and which are supervising fishing in waters washing the Faeroe Islands, all that is required is notification once a year through diplomatic channels for admittance to Danish inland territorial waters in the Faeroe Islands.

8

Foreign warships may visit or pass through the ports and port areas of Frederikshavn and Helsingør, as well as the roadstead and port of Copenhagen, if prior approval is received through diplomatic channels or, if it is only a question of passage through Hollaenderdybet and Drogden, prior notification through diplomatic channels.

9

Notification and approval, as indicated in Secs. 6, 7 and 8, are not required for:

a) warships belonging to States having fishing agreements with Denmark and which are supervising fishing, if it involves ports and anchorage sites on the west coast of Jutland and the port of Skagen;

b) warships in distress.

The inland territorial waters referred to in Sec. 4 are closed to foreign warships, and permission to pass through these waters or sojourn in them is ordinarily given only to warships in distress.

11

If more than three foreign warships of a single nationality plan to sojourn simultaneously in Danish waters within the same naval district, or if the sojourn of foreign warships in Danish waters, irrespective of the number of warships, extends beyond four days, prior approval must be obtained through diplomatic channels.

In Danish waters, foreign naval ships may not make measurements or conduct military exercises, such as firing guns, rockets or torpedoes, minelaying, minesweeping, laying smoke screens or artificial fogs, or exercises involving armed vessels, landing armed forces, etc.

Foreign submarines must be surfaced while in Danish waters and must fly their naval colors.

5. Regime of the Coastal Waters of the German Democratic Republic

The sea waters of the German Democratic Republic consist of inland waters and the territorial sea.

The territorial sea has a breadth of three nautical miles, measured from the low-water line, and in bays from a straight line 10 nautical miles in length. The territorial sea is measured from a straight baseline drawn between the outermost points of capes on successive bays and inlets.

1. Greifswalder Bodden; a line between the north-eastern point of the island of Usedom-Greifswalder Island-Oie Suedperd (on Ruegen Island).

2. Prorer Wiek; the line Granitzer Ort-Stubbenkammer.

3. Tromper Wiek; the line Granzow-Arkona.

4. Libben bay; the line Roberge Ort-Dornbum (on Hiddensee Island).

5. Wismar Bucht; the line Rerik-Gross Kluetz Hoeved.

6. Luebecker Bucht; that part which is located to the east of the boundary between the German Democratic Republic and the Federal Republic of Germany to a parallel corresponding to Klein Kluetz Hoeved.

Within these lines the waters are considered inland waters. Admittance to these waters is granted to ships proceeding to open ports of the German Democratic Republic or calling under emergency conditions (emergency call).

The right of innocent passage through the territorial sea is granted only on routes leading to the sea ports of Stralsund, Rostock, Wismar and Swinoujscie. So-called innocent passage of merchant vessels and warships is not permitted in other areas of the territorial sea of the German Democratic Republic, due to the danger of explosion of mines left over after military operations ceased at the end of the Second World War.

Foreign warships are permitted in the sea waters of the German Democratic Republic only with the approval of the Government of the German Democratic Republic.

The procedure for calls and sojourn by foreign warships in the waters of the German Democratic Republic was established in a resolution of the Council of Ministers of the German Democratic Republic of 11 August 1965.

All merchant vessels and warships are prohibited from calling and sojourning in four closed areas.

in implementing the peace treaty concluded between the USSR and Finland on 12 March 1940. The provisions of these agreements were reaffirmed in the peace treaty with Finland on 10 February 1947.

The agreement of 20 May 1966 between the USSR and Finland on demarcation of the seas and continental shelf in the Gulf of Finland, which came into force on 25 May 1966, is of great importance in determining the sea boundary in the Gulf of Finland.

The point of departure in the sea boundary is a point at which the national land boundary between the USSR and Finland juts into the sea on the northeast coast of Virolahti Bay, with coordinates 60° 32' 43" N., 27° 47' 45" E.

From this point of departure the boundary of the territorial sea extends along a broken straight line, first in a southwesterly direction, then to the south, and finally, along a broken straight line in a westerly direction to the end point of the national sea boundary between the USSR and Finland in the Gulf of Finland, with coordinates 60° 15' 35" N., 27° 30' 43" E.

The sea boundary between the USSR and Finland, established in 1940 and reaffirmed in the 1947 peace treaty, extends from the end point of the sea boundary, with coordinates 60° 15' 35" N., and 27° 30' 43" E., along a straight line in a southwesterly direction to a point with coordinates 60° 13' 42" N. and 27° 27' 50" E., then turns and proceeds along a straight line in a southwesterly direction to a point with coordinates 60° 12' 19" N. and 27° 18' 01" E., which will be the end point of the sea boundary between the Soviet Union and Finland.

From the aforementioned point, the boundary of the Soviet territorial sea proceeds along a straight line in a southwesterly direction to a point with coordinates 60° 08' 49" N. and 27° 04' 36" E., located on the boundary of the Soviet territorial sea established in 1940 and reaffirmed in the 1947 peace treaty.

The boundary line of the Finnish territorial sea from the aforementioned end point on the sea boundary extends to the west along a straight line to a point with coordinates 60° 12' 19" N. and 27° 13' 49" E.,

Fishing and maritime industry are the exclusive right of citizens of the German Democratic Republic.

Flights by the foreign aircraft above the waters of the German Democratic Republic may be conducted only with the approval of competent authorities of the German Democratic Republic.

6. Regime of the Coastal Waters of the Federal Republic of Germany

The sea waters of the Federal Republic of Germany consist of inland waters and the territorial sea to a distance of three nautical miles. In bays and inlets the breadth of the territorial sea is measured from a straight line - the 10-mile rule based on the multilateral treaty of 1882.

In the Baltic Sea, the territorial sea is measured from the mean water level at the coast, and in the North Sea from the low-water line. According to the statute on admittance of warships to the ports and waters of the German coast of 1 September 1925, foreign warships were granted the right of innocent passage through German territorial waters without special permission.

Submarines must cruise while surfaced. Foreign warships and merchant vessels are prohibited, during passage through German territorial waters, from calling in areas closed to navigation, or in areas set aside for combat training of German submarines. The right to fish in the inland waters and territorial sea is reserved exclusively to citizens of the Federal Republic of Germany.

7. National Sea Boundary of the USSR in the Baltic Sea Theater

The national sea boundary of the USSR in the Baltic theater has been established in cooperation with neighboring States: Finland and the Polish People's Republic.

The national sea boundary of the USSR with Finland was established under a protocol of 29 April 1940, signed

located along the boundary line of the Finnish territorial sea established in 1940 and reaffirmed in the 1947 peace treaty.

The boundary of the Soviet territorial sea north of the island of Sursaari (Hogland) proceeds along a broken straight line through points having the following coordinates: 1) Latitude: 50° 08' 30", Longitude: 27° 04' 07"; 2) Latitude: 60° 08' 30", Longitude: 26° 57' 25"; 3) Latitude: 60° 08' 12", Longitude: 26° 54' 25"; 4) Latitude: 60° 05' 00", Longitude: 26° 49' 0".

The boundary of the Finnish territorial sea in this area passes through 60° 12' 00" N., between 27° 13' 20" and 26° 45' 50" E. Thus a belt of sea having a breadth of 3.5 nautical miles has been established in this area between the outer limits of the territorial seas of the USSR and Finland. In this area of the Gulf of Finland it is also necessary to take into account the limits of the fishing and maritime industry zones for Finnish citizens, established under an agreement between the USSR and Finland on 21 February 1959.

The agreement of 20 May 1965 also provides that the Soviet Union and Finland are agreed not to extend their territorial seas in the Gulf of Finland west of the island of Hogland (Sursaari), or their fishing and other zones beyond a median line passing through points having the following geographic coordinates:

60°	08'	8"	N.,	26°	47'	9"	E.
60°	06'	8"	N.,	26°	36'	4"	E.
60°	06'	4"	N.,	26°	32'	6"	E.
60°	00'	0"	N.,	26°	20'	8"	E.
59°	59'	4"	N.,	26°	13'	1"	E.
59°	58'	4"	N.,	26°	08'	4"	E.
59°	52'	0"	N.,	25°	58'	5"	E.
59°	52'	9"	N.,	25°	28'	0"	E.
59°	53'	6"	N.,	25°	10'	6"	E.
59°	52'	4"	N.,	24°	57'	6"	E.
59°	50'	3"	N.,	24°	49'	7"	E.
59°	44'	5"	N.,	24°	24'	0"	E.
59°	37'	4"	N.,	23°	54'	3"	E.
59°	31'	9"	N.,	23°	30'	1"	E.
59°	32'	0"	N.,	23°	10'	0"	E.

in implementing the peace treaty concluded between the USSR and Finland on 12 March 1940. The provisions of these agreements were reaffirmed in the peace treaty with Finland on 10 February 1947.

The agreement of 20 May 1966 between the USSR and Finland on demarcation of the seas and continental shelf in the Gulf of Finland, which came into force on 25 May 1966, is of great importance in determining the sea boundary in the Gulf of Finland.

The point of departure in the sea boundary is a point at which the national land boundary between the USSR and Finland juts into the sea on the northeast coast of Virolahti Bay, with coordinates 60° 32' 43" N., 27° 47' 45" E.

From this point of departure the boundary of the territorial sea extends along a broken straight line, first in a southwesterly direction, then to the south, and finally, along a broken straight line in a westerly direction to the end point of the national sea boundary between the USSR and Finland in the Gulf of Finland, with coordinates 60° 15' 35" N., 27° 30' 43" E.

The sea boundary between the USSR and Finland, established in 1940 and reaffirmed in the 1947 peace treaty, extends from the end point of the sea boundary, with coordinates 60° 15' 35" N., and 27° 30' 43" E., along a straight line in a southwesterly direction to a point with coordinates 60° 13' 42" N. and 27° 27' 50" E., then turns and proceeds along a straight line in a southwesterly direction to a point with coordinates 60° 12' 19" N. and 27° 18' 01" E., which will be the end point of the sea boundary between the Soviet Union and Finland.

From the aforementioned point, the boundary of the Soviet territorial sea proceeds along a straight line in a southwesterly direction to a point with coordinates 60° 08' 49" N. and 27° 04' 36" E., located on the boundary of the Soviet territorial sea established in 1940 and reaffirmed in the 1947 peace treaty.

The boundary line of the Finnish territorial sea from the aforementioned end point on the sea boundary extends to the west along a straight line to a point with coordinates 60° 12' 19" N. and 27° 13' 49" E.,

located along the boundary line of the Finnish territorial sea established in 1940 and reaffirmed in the 1947 peace treaty.

The boundary of the Soviet territorial sea north of the island of Sursaari (Hogland) proceeds along a broken straight line through points having the following coordinates: 1) Latitude: 50° 08' 30", Longitude: 27° 04' 07"; 2) Latitude: 60° 08' 30", Longitude: 26° 57' 25"; 3) Latitude: 60° 08' 12", Longitude: 26° 54' 25"; 4) Latitude: 60° 05' 00", Longitude: 26° 49' 0".

The boundary of the Finnish territorial sea in this area passes through 60° 12' 08" N., between 27° 13' 20" and 26° 45' 50" E. Thus a belt of sea having a breadth of 3.5 nautical miles has been established in this area between the outer limits of the territorial seas of the USSR and Finland. In this area of the Gulf of Finland it is also necessary to take into account the limits of the fishing and maritime industry zones for Finnish citizens, established under an agreement between the USSR and Finland on 21 February 1959.

The agreement of 20 May 1965 also provides that the Soviet Union and Finland are agreed not to extend their territorial seas in the Gulf of Finland west of the island of Hogland (Sursaari), or their fishing and other zones beyond a median line passing through points having the following geographic coordinates:

60°	08'	6"	N.,	26°	47'	9"	E.
60°	06'	8"	N.,	26°	38'	4"	E.
60°	06'	4"	N.,	26°	32'	6"	E.
60°	00'	0"	N.,	26°	20'	8"	E.
59°	59'	4"	N.,	26°	13'	1"	E.
59°	56'	4"	N.,	26°	05'	4"	E.
59°	52'	0"	N.,	25°	58'	5"	E.
59°	52'	9"	N.,	25°	20'	0"	E.
59°	53'	6"	N.,	25°	10'	6"	E.
59°	52'	4"	N.,	24°	57'	6"	E.
59°	50'	8"	N.,	24°	49'	7"	E.
59°	44'	5"	N.,	24°	24'	8"	E.
59°	37'	4"	N.,	23°	54'	8"	E.
59°	31'	9"	N.,	23°	30'	1"	E.
59°	32'	0"	N.,	23°	10'	0"	E.

The aforementioned median line will also be the limits of the continental shelf between the two States.

The national sea boundary between the USSR and the Polish People's Republic was established under a protocol of 18 March 1958 to the treaty between the USSR and the Polish People's Republic of 5 March 1957, demarcating the existing Soviet-Polish national boundary in a sector contiguous to the Baltic Sea in the Bay of Danzig.

In accordance with the aforementioned protocol, the boundary line between the territorial sea of the Soviet Union and Polish People's Republic passes along a perpendicular to the coastline at the end point of the Soviet-Polish national boundary, located on the Baltiyskaya Kosa, to its intersection with the outer limits of the territorial sea of the Polish People's Republic. An extension of this line in that direction to the point of intersection with the outer limits of the territorial sea of the USSR constitutes the limits of the territorial sea of the Soviet Union.

CHAPTER III

INTERNATIONAL LEGAL REGIME OF THE BLACK SEA THEATER

1. Characteristics of the Theater

A unique feature of the Black Sea as a closed sea is the fact that its regime is closely related to that of the Bosporus and the Dardanelles, which comprise the only exit from this sea.

The Black Sea is of enormous economic significance to the Soviet Union as an important transport artery connecting it with other water basins and with the world market. This sea is equally significant for the development of the economy and commerce of the Socialist Republic of Rumania and the People's Republic of Bulgaria.

The Socialist countries bordering on the Black Sea are interested in the establishment of a regime for the Black Sea and its straits which would guarantee the security of all the Black Sea Powers and the development of economic relations between nations.

2. Regime of Waters in This Theater

Among the legal acts determining the regime of the waters of this area, of great significance is a cooperative agreement concluded between the USSR, Bulgaria and Rumania on 11 September 1956 on the safety of life at sea and rendering assistance to ships and aircraft in distress on the Black Sea. The salvage and sea rescue services of the Parties should render assistance with the facilities and resources at their command and should provide for safety of life on the Black Sea and salvage of ships (aircraft) and their cargo. Salvage and sea rescue services maintain radio communication with one another at an initial frequency of 500 kc, switching later to a frequency of 489 kc (613.5 m). Communication is established with the salvage and sea rescue service of the USSR through radio station UHW, through radio station LZW for the salvage and sea rescue service of Bulgaria, and radio station VQS for the salvage and sea rescue service of Rumania.

In conducting rescue operations, ships of the salvage and sea rescue services maintain radio communication between themselves and a ship (or aircraft) in distress, through the aforementioned radio stations, or, if possible through direct radio communication at frequencies of 500 kc or 2182 kc (137.4 m). Communication is maintained by radio, using the International Code of Signals, or, if possible, in the Russian or English language.

Problems arising in negotiations between the salvage vessels and the owners of the salvaged property are resolved by agreement between the salvaged vessels and the master of the ship in distress. Salvage and rescue operations are officially concluded by agreement between the master of the ship (aircraft) in distress and the salvage vessel.

The rescue of life is conducted without compensation.

The laws of coastal States regulating the regime of their territorial and inland waters are cited below.

Soviet Union. The regime of the territorial waters of the Soviet Union is discussed in Chapter IV, Part I, of this Manual. The regime of the Black Sea area does not differ at all from that of other areas. The breadth of the Soviet territorial sea in the Black Sea area, as in other areas, is 12 miles and is measured from the low-water line.

The inland waters of the USSR in this area consist of the waters of rivers, estuaries, bays, harbors and roadsteads, as well as the entire Sea of Azov from the Kerch Strait.

Socialist Republic of Rumania. The regime of the territorial waters of Rumania is now regulated under an Edict of the Presidium of the Great National Assembly of 14 February 1950, amended by an Edict of 28 September 1951, and Decree No. 39 of 21 January 1956.

Under this mandate, the breadth of the territorial sea of Rumania has been set at 12 nautical miles (22,224 m) from the coastline seaward. The territorial waters of Rumania are separated from the territorial waters of neighboring countries to the south by a geographic parallel drawn through a point on the land boundary, located on the coastline, and on the north by a line established under a treaty between Rumania and the USSR.

Except for emergencies or protection from a storm, foreign warships may visit the territorial waters of Rumania only after receiving advance permission from the government of the country.

Appendix XVII

DECREE NO. 39 OF THE PRESIDIUM OF THE NATIONAL ASSEMBLY OF THE RUMANIAN PEOPLE'S REPUBLIC ON THE REGIME OF THE TERRITORIAL SEA

21 January 1956

The Presidium of the National Assembly of the Rumanian People's Republic hereby decrees:

Article 1. A breadth of 12 nautical miles (22,224 m) is established for the territorial sea of the Rumanian People's Republic, measured from the coastline and separated from the territorial waters of contiguous States to the south by the parallel of latitude from the boundary point on shore, and to the north along a line established by treaty between the Rumanian People's Republic and the Union of Soviet Socialist Republics.

Article 2. The territorial sea of the Rumanian People's Republic, the floor and subsoil beneath the territorial sea, as well as the air space above it, are part of the territory of the Rumanian People's Republic.

Article 3. The Rumanian People's Republic exercises sovereignty over its territorial sea on the basis of existing laws, principles of international law and agreements and conventions concluded with foreign States.

Article 4. Passage, stopping and anchorage of foreign ships in the territorial sea of the Rumanian People's Republic are free if the ships are on an ordinary voyage or in event of emergency or shelter from a storm.

Ships which pass through, stop or anchor in the territorial sea for purposes other than those indicated in the preceding paragraph will be requested, using signals established in accordance with international customs, to leave the territorial sea of the Rumanian People's Republic.

Ships calling at ports of the Rumanian People's Republic must use passages and channels established and designated by navigation markers.

Article 5. The port of Mangalia and the coastal zone between 43° 45' and 43° 53' N., and 28° 45' E. have been declared open to foreign navigation.

Other ports and zones of the Rumanian People's Republic may be declared open to foreign navigation only by decree of the Council of Ministers.

Article 6. It is prohibited in the territorial waters of the Rumanian People's Republic to embark or disembark passengers or to load or unload cargo outside the ports or areas in which these activities are permitted, except in cases in which the above activities are conducted in connection with search and rescue operations.

Fishing, hunting, any type of measurement for the determination of depth, temperature or degree of salinity, photographing and any type of exploration with the exception of measurements required for navigation, are permitted only with prior approval of competent agencies of the Rumanian People's Republic.

Article 7. Ships which fail to observe Art. 4, Pars. 2 and 3, as well as ships which violate the provisions of Art. 6, Pars. 1 and 3, will be escorted to the nearest port of the Rumanian People's Republic for inspection.

Failure to leave the territorial sea after signals are rendered in accordance with the provisions of Art. 4, Para. 2, as well as failure to comply with the provisions of Para. 3 of this Article or the provisions of Art. 6, Para. 1, is punishable under Art. 267 of the Criminal Code.

Nonobservance of the provisions of Art. 6, Para. 3, with respect to fishing and hunting, is punishable, depending upon circumstances, under Art. 268[15], Pars. "a"-"c" inclusive of the Criminal Code, or under Decree No. 76 of 23 February 1953, and nonobservance of the provisions of the paragraph relating to photographing and any type of exploration is punishable under the provisions of Decree No. 204 of 8 October 1954.

Article 8. A foreign military vessel may pass through, stop or anchor in the territorial sea of the Rumanian People's Republic, and call at ports of the Rumanian People's Republic, only with prior approval of the Government of the Rumanian People's Republic, except for emergencies or shelter from the storm.

Submerged foreign submarines may not cruise, stop and anchor in the territorial sea of the Rumanian People's Republic.

Foreign submarines submerged in the territorial sea of the Rumanian People's Republic will be pursued and destroyed without warning.

Article 9. This Article annuls the provisions of Pars. 2, 3 and 4 of Art. 4 and Art. 159 of Decree No. 41 of 14 February 1950 concerning supervision, control and the regime of ocean and river navigation, together with amendments contained in Decree No. 176 of 29 September 1951.

People's Republic of Bulgaria. The regime of navigation in Bulgarian waters was established under the decree of the Presidium of the National Assembly of 10 October 1951 Concerning the Territorial and Inland Waters of the People's Republic of Bulgaria. This Decree replaced the old 1935 law governing the territorial waters, which could not completely guarantee the domestic economic interests or security of the new Bulgaria.

The territorial sea of Bulgaria extends 12 nautical miles seaward from the low-water line along the coast and islands, from the outermost points of harbor works and from the outer boundary of the inland waters.

The waters of Varnenski Zaliv (Varna Bay) and the Burgaski Zaliv (Gulf of Burgas) have been declared inland waters of Bulgaria. The Decree stipulates that the inland and territorial waters, the air space above them and also the floor and subsoil beneath them are part of the territory of the People's Republic of Bulgaria, to which only her laws extend.

Passage, stopping or anchoring of foreign nonmilitary ships is free in the territorial and inland waters of Bulgaria, except for certain closed areas of the territorial sea. Foreign warships may also call at

open ports if they are on the normal course or if such calls are necessitated by emergencies or shelter from a storm.

Passage, stopping or anchoring of foreign warships in the territorial and inland waters of Bulgaria, as well as calls by warships at ports open to foreign warships, may be made only with prior approval of the Government of Bulgaria or in event of emergency or shelter from a storm.

Appendix XVIII

DECREE OF THE PRESIDIUM OF THE NATIONAL ASSEMBLY CONCERNING THE TERRITORIAL AND INLAND WATERS OF THE PEOPLE'S REPUBLIC OF BULGARIA

10 October 1951

Section 1

The territorial waters of the People's Republic of Bulgaria shall extend seaward twelve miles from the water mark of the seacoast, the islands, the outermost points of the port installations, and the line of the inland waters. A marine mile is 1,852 meters.

Section 2

The sea space inclosed between the littoral and a straight line from the headland of Sveti Konstantin to the headland of Handjik (Bay of Stalin[1]) and from the headland of Emine to the headland of Maslen Nos (Zelkatin Borun) (Bay of Burgas), shall be regarded as inland waters of the People's Republic of Bulgaria.

Section 3

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.

Section 4

The territorial waters of the People's Republic shall be divided from the territorial waters of the neighboring states by the geographic parallel extending from the point where the land boundary touches the coast.

Section 5

The inland and territorial waters of the People's Republic, as also the airspace above them and the sea bed and subsoil covered by them, shall be part of the territory of the People's Republic and subject to the laws of the Republic alone.

Section 6

The People's Republic of Bulgaria shall exercise its sovereignty over the territorial waters as specified in Section 5 by virtue of the existing laws, rules of international law, and treaties and agreements concluded with other states.

[1] Now called Varna Bay.

SECTION 7

The ports of Stalin[2] and Sozopol shall be closed to all foreign ships.

Other ports of the People's Republic of Bulgaria may be declared closed to foreign ships by decree of the Council of Ministers.

SECTION 8

Passage, stopping, or anchoring of foreign non-naval vessels in the territorial and inland waters of the People's Republic, except in the individual zones of the territorial waters specified in Section 3, and the entry thereof in ports not closed to foreign ships shall be free if it pertains to the ordinary navigation of the vessel or is necessitated by damage or storm.

Passage of such vessels through the zones of the territorial waters specified in Section 3 shall be allowed only for entering or leaving ports at points designated by the port authorities.

In time of heavy storm when danger to the vessel exists, the foreign non-naval vessel may request permission to enter one of the bays and ports southwest of the headlands of Kaliakra or Emine, where it may remain only for the duration of the storm.

SECTION 9

Passage, stopping or anchoring of foreign naval vessels in the territorial and inland waters of the People's Republic and the entry thereof in ports not closed to foreign ships may take place only upon previous permission of the Government of the People's Republic of Bulgaria or when necessitated by damage or storm.

SECTION 10

Foreign submarine vessels of any type shall be forbidden to sail, stop, lie on sea bottom, or cast anchor in the territorial and inland waters of the People's Republic while under the surface.

A submarine vessel which has been sighted under the surface in the territorial and inland waters of the People's Republic shall be pursued and destroyed without warning or responsibility for the consequences.

When it is above the surface, the submarine vessel shall be subject to the provisions of Section 9.

SECTION 11

Foreign vessels shall be prohibited, while in the territorial and inland waters or the ports of the People's Republic, from catching any marine fauna, extracting any sea products, making any measurements, observations, surveys, or photographs whatsoever, conducting combat training, target practice, and the like, or using radio-broadcasting equipment, radio-directional finders, submarine sound-detection devices or any equipment other than that designated for navigational purposes. They shall be under obligation to observe strictly the established international rules, the laws of the People's Republic of Bulgaria, and the regulations concerning public

[2]Now the port of Varna.

order, security, sanitation, and fiscal interests of the People's Republic as issued by the appropriate governmental agencies by virtue of these laws.

Use of radio-broadcasting equipment may be allowed only in the event of damage or sea rescue; measurement of depth around the vessel may be allowed only when the vessel has run aground.

Section 12

A foreign vessel which has violated in the territorial and inland waters the laws of the People's Republic, rules and regulations issued by virtue of these laws, or established international rules, treaties, and agreements concerning navigation, shall be invited, by means of the established international signals or a shot of warning given by the border naval forces or port authorities, to leave the territorial waters of the People's Republic.

Section 13

A foreign naval vessel which does not obey the signal to leave the territorial waters of the People's Republic may be fired upon without responsibility for the consequences.

Section 14

A foreign non-naval vessel which commits serious offenses (such as smuggling goods in or out of the country, harboring persons who have no papers or are wanted by the authorities, et cetera) or disobeys a signal to leave the territorial waters of the People's Republic, may be detained by the border naval forces for arraignment of the offenders or payment of the fees and fines provided for by the law.

A vessel which resists detention and attempts to escape to high seas may be pursued continuously by the border naval forces to the limits of the territorial waters of another state for the purpose of capture.

Section 15

Foreign naval vessels which pass with due permission through the territorial waters of the People's Republic or enter the ports thereof shall not pay any fees except those for special services rendered to them.

Section 16

The Council of Ministers shall issue regulations for application of the present decree as recommended by the Minister of the Interior.

Section 17

The present decree shall repeal the decree-law on territorial waters of 1935 and all laws and regulations which contradict it.

The enforcement of the present decree shall be assigned to the Minister of the Interior.

Done at Sofia on 10 October 1951, No. 514 and stamped with the official seal.3

3. See Compendium "Constitution and Basic Laws of the People's Republic of Bulgaria," Moscow, State Law Publishing House, 1952.

3. Regime of the Territorial Sea of Turkey

Under a law of 15 May 1964 a 6-mile territorial sea has been established for Turkey.

The procedure for admittance of foreign warships and military aircraft to Turkish waters was established under Turkish rules (regulations) of 1 November 1925; Regulation on Air Navigation in Turkey, 9 September 1925; the 1936 Convention on the Regime of the Black Sea Straits4; the Resolution on a Prohibited Air Zone in the Straits, of 16 March 1937, etc.

4. The regime of the Black Sea Straits is discussed in detail in Chapter VIII, Part I, of this Manual.

The aforementioned rules stipulate that warships, auxiliary vessels, government-owned vessels and military aircraft may enter the ports and territorial waters of Turkey only with permission from the Government of Turkey. This permission may be obtained by informing the Turkish Government, at least 10 days in advance of the proposed visit, of the principal dimensions and names of the warships and other vessels, the surnames of the commanding officers, size of the crew, and also the length and purpose of the call.

No approval is needed for warships and auxiliary vessels carrying Chiefs of State or warships and auxiliary vessels making emergency calls at Turkish ports due to emergencies threatening their safety or any other unanticipated contingency.

The Regulation on Air Navigation, of 9 September 1925, stipulates that the air boundaries of Turkey are the same as its land boundaries and the air boundary at sea coincides with that of the territorial sea.

Foreign military aircraft may enter Turkish air space only after obtaining prior approval through diplomatic channels.

Coastal navigation, transport of cargo, pilot service, etc. are regulated under a law of 19 April 1926 concerning navigation in Turkish coastal waters and commerce and industry in ports and in the territorial sea. Foreign ships may deliver to Turkish ports only passengers and cargo taken on outside Turkish ports, and may take on passengers and cargo en route from Turkish ports to the ports of other States. Turkish citizens have the exclusive right to engage in fishing and other maritime industry, to raise sunken ships and their debris, to engage in diving and exploration, etc. in the territorial sea.

In approaching the territorial waters of Turkey, foreign warships must hoist their colors at a distance from shore at which signals can be distinguished.

Disembarking, the conduct of exercises in Turkish waters, compilation of photographs, drawings, hydrographic and topographic surveys, etc., are treated under Turkish law the same as under the laws of other States. These activities are strictly forbidden.

Appendix XIX

RULES WHICH FOREIGN WARSHIPS AND ESCORT AIRCRAFT MUST OBEY IN VISITING THE PORTS AND TERRITORIAL WATERS OF THE TURKISH REPUBLIC

29 July 1925

(Extract)

Article 1. No foreign warship, auxiliary vessel, government-owned ship, aircraft carrier or aircraft escorting the aforementioned ships may enter the ports or territorial waters without obtaining permission from the Government of the Turkish Republic through diplomatic channels.

Any foreign State wishing to obtain such permission must inform the Government of the Turkish Republic through diplomatic channels at least 10 days in advance, indicating the principal dimensions and names of the warships and other vessels, the surnames of the commanding officer, size of the crew, and the length and purpose of the call.

Article 2. Foreign submarines may not cruise submerged in the territorial waters of the Turkish Republic at any time.

Article 3. The Government of the Turkish Republic reserves to itself the right to establish and restrict the number of warships and other vessels belonging to the same State permitted in the ports and territorial waters, and to restrict the length of their stay there. In event of imperative need, the authorized length of stay may be extended by the Turkish Republic if request ~~for~~ made to the Government through diplomatic channels.

a) Warships and auxiliary vessels carrying Chiefs of foreign States, Presidents of Republics or members of ruling dynasties, as well as

b) warships and other auxiliary vessels which must call at Turkish ports due to an emergency threatening their safety or some other unforeseen contingency are exempted from the provisions of Arts. 1 and 3.

Article 4. Foreign warships must hoist their colors in approaching Turkish territorial waters and upon entering a zone from which signals may be seen on shore.

Article 5. In all Turkish ports with a harbormaster or a port captain, foreign warships must anchor at points designated by the aforementioned authorities. Ship's boats, sail and motor launches, etc. may come alongside only at designated points in a port.

Article 6. Permission granted to foreign warships to enter Turkish ports and territorial waters may be withdrawn if the Turkish Government deems it necessary, which fact will be communicated to all the Governments concerned. If the aforementioned warships receive such a communication, they must leave the port within six hours or anchor at designated points.

Article 7. The officers, men and other crewmembers of warships in the ports and territorial waters of the Turkish Republic with special permission are prohibited from walking in the vicinity of fortifications, batteries, military facilities or installations.

Article 8. Foreign warships in Turkish ports and territorial waters with special permission are prohibited from landing detachments or engaging in any type of gunnery or other fire in these ports and territorial waters, firing torpedoes, laying mines or conducting exercises with searchlights.

Article 9. All crewmembers of a foreign warship are absolutely prohibited from photographing ports and shores of the Turkish Republic; surveying the terrain; reproducing and publishing plans, diagrams, photographs or descriptions of fortifications and batteries, as well as installations at a distance of 10 km from the latter; taking depth measurements, making hydrographic or topographical surveys or any type without the approval of the Government, using ship's boats or other means; sending out maritime signals; conducting flights and any type of aerial reconnaissance of the shoreline and obtaining cartographic surveys.

Article 10. If foreign warships authorized to enter the ports and territorial waters of the Turkish Republic are escorted by aircraft, the aircraft may not enter these waters airborne.

Article 11. Personnel of foreign warships may go on shore leave only for the purpose of strolling about and must be unarmed.

However, if the commanding officer of a warship wishes to send an armed detachment ashore for a funeral ceremony, he must request approval from local officials and must make arrangements with them concerning the number of men who can be sent ashore, depending upon the nature of the ceremony.

Officers may wear a saber or sword as part of their uniform on official visits.

Article 12. Warships belonging to various foreign States and having hostile relations with one another may not detain, inspect, destroy or seize warships in the ports and territorial waters of the Turkish Republic.

Article 13. The commanding officers of foreign warships must fully comply with existing laws and regulations of the Turkish Republic concerning hygiene, customs control, the use of radiotelegraphic equipment and the regime of the Turkish ports.

Article 14. If the commanding officers of foreign warships do not fully comply with the provisions of this Regulation, local officials - both military and naval - bring this to their attention first, then invite them to comply with the aforementioned provisions.

If these steps do not yield the desired results, the aforementioned local officials request the ships to immediately leave the ports and territorial waters of the Turkish Republic.

Article 15. The Government of the Turkish Republic has the right, in event of danger or declaration of war, to grant or not to grant permission to foreign warships to enter her ports or territorial waters or to apply any other restrictions it considers useful.

Article 17. As indicated in Art. 1 of this Regulation, all warships and auxiliary naval vessels (transport ships, oilers, colliers and aircraft carriers, as well as yachts belonging to a State or privately owned) may not be admitted to ports of the Turkish Republic formally declared naval ports, which fact has been or is being communicated to foreign powers.

Article 18. Warships and auxiliary vessels referred to in Pars. "a" and "b", Art. 3, as well as military aircraft, may not be admitted to naval ports of the Turkish Republic.[5]

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5. Articles 17 and 18 are cited here in the text published by the Turkish Government in 1933, which is a revision of the original 1925 text.

Appendix XX

REGULATION ON AIR NAVIGATION IN TURKEY

9 September 1925

Rules Governing Military and Civil Aircraft

[...] Article 6. Military aircraft and aerostats consist of the following: all aircraft and aerostats belonging to the air forces of a State, and those designated for some type of government service (customs, police and postal) or flown by a military pilot [...]

Article 8. All aircraft and aerostats engaged in air navigation within Turkish air space may transport film and photographic plates only with special permission.

The use of any type of aircraft and aerostats to transport highly inflammable substances, weapons, ammunition, bombs and military equipment is likewise prohibited.

In time of war, if Turkey is a belligerent, non-military aircraft or aerostats of neutral States arriving in Turkey may not transport radiotelegraphic or radiotelephonic equipment [...]

Article 10. Foreign aircraft and aerostats arriving at points within the air boundaries of Turkey are subject to all of the laws and regulations of the country, as well as the International Air Navigation Convention of 13 October 1919.

Article 11. If Turkey is a belligerent, nonmilitary aircraft and aerostats of the enemy are subject to the very same regime as his military aircraft and aerostats.

Article 12. Foreign military aircraft and aerostats may enter Turkish air space only after receiving prior approval through diplomatic channels.

The request for permission must contain the following information: a) number, system and purpose of the flight of aircraft; b) established flight plan; c) proposed landing points; d) call signs, if the aircraft are equipped with radios; e) date of proposed visit.

Article 13. Whenever foreign warships authorized to visit the ports and territorial waters of the Turkish Republic are escorted by aircraft, the latter may not overfly these ports or territorial waters.

Airdromes, Landing, Sojourn. The provisions relating to airdromes are applied at the present time to the military airdromes of the Turkish Republic at San Stefano (Istanbul) and Eskişehir. Later they will be applied to nonmilitary airdromes, which will be constructed under a special decree.

Article 16. All aircraft and aerostats, Turkish and foreign, landing at airdromes and airports must observe rules governing air navigation at airdromes and surrounding areas and must proceed to the left of the wind direction in landing against the wind and to the right in taking off.

Article 17. Dangerous aerial exercises at a distance of 2 km from airdromes are prohibited. [...]

Article 20. The Turkish Air Force does not assume responsibility for damages or losses sustained by aircraft during landing or while they are housed in military hangars, to their pilots, flight engineers, crew or passengers, or to their cargoes as a result of fire, flood storm or explosion. [...]

Article 22. If aircraft landing at military airdromes sustain damages which could interfere with takeoff, these aircraft may be transported to the nearest airdrome for necessary repairs if the damages cannot be corrected or eliminated any other way.

Appendix XXI

TURKISH RESOLUTION ON A PROHIBITED AIR ZONE IN THE STRAITS

16 March 1937

In view of the need for a separate prohibited air zone in conformity with the second prohibited zone created in the straits under the Montreux Convention, the aforementioned air zone was established as follows:

For the Dardanelles. A line beginning at Kadirga Burnu (Edremit Korfezi), proceeding to Çalti Koyü-Kocarlar-Catalagil-Kilisealan-Burma Koyü and, following Can Deresi River, proceeding to Kaltepe-Emali-Erdek-Katil, so that, skirting the island of Marmara, 10 km to the east and north, it attains the European coast at Gaziköy, then proceeds to Zaralı-Kadiköyü and (following the Doganca Deresi River) on to Kizkapan-Baragi-Saban, then along the Dagtarla Sirt ridge, located between the two Tuzla lakes, passing 10 km to the north and west of Imroz and Bozca Ada Islands, proceeding the same distance across the sea to Baba Burnu, in order to terminate at Kadirga Burnu, proceeding through Turkish territorial waters.

For the Bosporus. A line bounded on the west by the demarcation line of the prohibited air zone of the fortress of Çatalca and, beginning to the south at Çamlıhan, continuing in the direction of Sukulesi-Rumelihisari, Anadoluhisari, Polenez-Koyü, Hüseynli-Köyü, Akpinar Tepe, then to Rokethane station, located 10 km to the east of the Alacali area on the shores of the Black Sea, and then, proceeding along the coast to the west at a distance of 10 km from the coast, attaining at Halas-Burnu the prohibited air zone of Çatalca.

Appendix XXII

LAW GOVERNING THE TERRITORIAL SEA OF TURKEY

15 May 1964

Article 1. The Turkish territorial sea is part of the territory of Turkey.

The breadth of the Turkish territorial sea is six nautical miles.

For the purposes of this Law, one nautical mile equals 1852 meters.

Article 2. The breadth of the Turkish territorial sea with respect to States having a broader territorial sea than that of Turkey is established under the principle of reciprocity.

Article 3. If the distance between Turkish territory and that of a neighboring State is less than the total breadth of the territorial seas of the two States, then the outer limits of the Turkish territorial sea (in the absence of any agreement to the contrary) are formed by the median line.

Article 4. The ordinary baseline for measuring the breadth of the territorial sea is the low-water line at the coast.

On an indented coastline or at points where islands are close to the coastline, the principle of the straight baseline, at which points on the coast and island capes jutting into the sea converge is used.

Article 5. The inland waters of Turkey consist of the following: waters located inland from the baselines; bays the entrance width of which does not exceed 24 nautical miles; parts of bays the entrance width of which exceeds 24 nautical miles, but which are located beyond a 24-mile straight baseline, connecting both shores within a bay in such a way that the broadest section of the water area is inland; waters and outer ports located up

to a line connecting permanent works jutting out into the sea, forming an additional part of the port system.

Article 6. The territorial waters of islands are established on the basis of the aforementioned principles.

Article 7. The baselines for measuring the breadth of the territorial sea are indicated on large-scale nautical charts and communicated to interested agencies.

Article 8. For fishing and the capture of marine organisms, the regime of the territorial sea is applied in sectors with a breadth of 12 nautical miles, beginning at baselines contiguous to Turkish territorial waters and from which the territorial sea is measured.

Article 9. Turkey retains the rights ensuing from international agreements, treaties and conventions in which it is a participant.

The provisions of laws and resolutions at variance with this law are revoked.

Article 10. The present Law comes into force three months after its publication.

Article 11. The Council of Ministers is responsible for the implementation of this Law.

Appendix XXIII

LAW GOVERNING THE TURKISH MARITIME BANK

10 August 1951

(Extract)

[...] Article 10. The Bank is authorized to engage in ship salvage and rescue operations and to render assistance to them in all seas.

The Bank has a monopoly right to engage in search and rescue operations and to render assistance to ships

in excess of 300 GRT and their cargoes, except for military vessels shipwrecked in the territorial sea, in the Black Sea between the capes at Şile and Kara Burun, and in the Aegean Sea between Baba Burnu and Kilimli Burnu in Saros Körfezi, including the territorial waters around the islands of Bozca Ada and Imroz, as well as in the Bosporus and Dardanelles and in the Sea of Marmora, which are located between these two boundaries.

CHAPTER IV

INTERNATIONAL LEGAL REGIME OF THE MEDITERRANEAN THEATER

1. Characteristics of the Theater

The Mediterranean Sea washes the shores of eighteen States - Socialist, capitalist and also countries which have been liberated from colonial dependence and are on their way toward independent development. More than 300 million people reside in the territory of these States.

Three continents share the Mediterranean Sea. The shortest route from Europe to Southeast Asia, the Far East and the Atlantic Ocean passes through it. It opens the way to the petroleum resources of the Near and Middle East.

Because of its important strategic location, the Mediterranean area has long been one of the major sources of contention between the United States and Great Britain and the object of a prolonged struggle between them for economic, political and military control.

Prior to the Second World War, Great Britain occupied a dominant position in the Mediterranean Sea. By occupying key positions such as Gibraltar, Malta and the Suez Canal, she controlled navigation in this area during that period.

After the Second World War the balance of power in the Mediterranean Sea shifted sharply in favor of the United States. Great Britain began to relinquish these positions one after the other, beginning with the Suez Canal area and the countries of the Near and Middle East, then Malta. Now the British position in Gibraltar is also insecure - Spain is seeking its return.

With the aid of the North Atlantic Treaty and a number of other treaties and bilateral agreements, the United States began to exert a strong influence on the policies of a number of Mediterranean countries and established a large number of military, air and naval bases - as well as nuclear weapons supply depots - on the territory of Spain, France, Italy, Turkey and Greece.

Attaching great significance to this area in its preparations for an aggressive war, the United States has deployed its 6th Fleet in the Mediterranean Sea. This fleet is organizationally and operationally attached to NATO and constitutes a dangerous weapon in international provocations of imperialist reaction against the Socialist countries and the countries of the Near East and Africa. The armed forces of the NATO countries systematically conduct maneuvers in the Mediterranean Sea basin.

The Mediterranean area is one of the most congested. Through it pass international trade routes of primary importance in the development of trade relations between the Soviet Union and other States, and for the shipment of goods from Soviet ports on the Black Sea to Soviet ports on the Baltic Sea, Arctic Ocean and in the Far East. It is for this reason that the Soviet Union is deeply interested in converting the Mediterranean Sea into a sea of peace for the development of trade and the strengthening of friendly relations between nations.

The Soviet Union fully supports the demand of the peoples of many Mediterranean nations for withdrawal of the United States 6th Fleet from this area and declaration of the Mediterranean Sea as an atom-free zone.

2. Regime of the Waters of the Mediterranean Countries

Greece. The regime of the territorial and inland waters of Greece was established under a law of 26 March 1913, another law of 17 September 1936 and a number of other mandates. Under these laws the breadth of the territorial waters of Greece was established at six miles.

The inland sea waters of Greece consist of bays and gulfs to a straight line drawn across the entrance to these waters if the breadth of the entrance is 20 nautical miles or less.

A 10-mile security zone has also been established, moreover. The neutrality zone coincides with the territorial waters.

The fishing zone likewise coincides with the zone of territorial waters. There is, however, the stipulation that for those States which have a fishing zone in excess of six miles, the fishing zone of Greece is established according to the principle of reciprocity.

Notification must be given before foreign warships may call in the territorial waters of Greece. This does not apply to passage through the numerous straits between the Greek islands in the Aegean Sea, which constitute important waterways leading into the Black Sea.

Special permission must be obtained from Greek authorities through diplomatic channels, before foreign warships can call at Greek ports, harbors and bays.

It should be noted that after the accession of Greece to NATO the navies of Great Britain, the United States and other members of the bloc have repeatedly conducted maneuvers in Greek waters.

People's Republic of Albania. According to a decree of the Presidium of the National Assembly of 1 September 1961, the territorial waters of Albania include the area of the Adriatic and Ionian Seas and extend a distance of 12 nautical miles from shore. Foreign ships may navigate in Albanian territorial waters in accordance with international treaties and conventions, but warships must proceed on a given course established in advance. Merchant ships may stop, load and unload cargo only in ports where these operations are permitted.

Certain areas of the territorial waters may be closed to foreign ships. Navigation, sojourn and lying in a submerged state with no way on in territorial waters is prohibited, under threat of destruction. Foreign aircraft which overfly the territorial or inland waters of Albania without prior authorization and which fail to obey an order to land also run the risk of destruction.

The Socialist Federal Republic of Yugoslavia. A law of 23 April 1965 stipulates that the coastal strip of Yugoslavia includes both the inland sea waters and territorial waters.

The inland sea waters consist of bays and gulfs along the coastline and islands, the mouths of rivers, and also part of the sea between the coastline and the baseline of the territorial waters drawn through the following points on the coastline and islands:

a) Rt Zarubača - the southeastern extremity of the islet of Mrkan - the southern extremity of the island of Sveti Andrija - Rt Gruf (on the island of Mljet);

b) Rt Korizmeni (island of Mljet - islet of Glavat - Rt Struga (island of Lastovo) - Rt Veljega Mora (island of Lastovo) - southwestern extremity of the island of Kopigite - Rt Velo Dance (island of Korčula) - southwestern extremity of the island of Vodnjak - Rt Rat (on the island of Drvenik Mali) - Mulo Rock - Blitvenica Rock - island of Purara - island of Balun-Mrtovats - island of Garmenjak Vel and a point on Dugi Otok with coordinates 43° 53' 12" North Latitute and 15° 10' 00" East Longitude;

c) Rt Veli Rat (Dugi Otok) - Masarine Rock - Rt Margarina (island of Sušac) - Albanež Shoal - Island of Grun - Sveti Ivan Rock at Pukin - Mramori Shoal - island of Altiješ - Rt Kastania.

Foreign merchant ships may enter the inland waters to call at a port open to international navigation, and also to pass between ports using the shortest established route.

Before calling at a port, a foreign nuclear-powered merchant ship must present a certified statement to the Secretariat of Traffic and Communications at the appropriate time, certifying that the nuclear power plants are in proper operating condition, in order to assure that this ship constitutes no nuclear hazard.

Passage of foreign warships, foreign government-owned vessels (used exclusively for noncommercial purposes) and foreign fishing vessels without authorization by Yugoslav authorities is prohibited.

Permission may be granted to warships for sojourn of not more than 10 days and not more than three ships at any one time. But exceptions may be granted by the Federal Executive Committee authorizing a longer stay and by a larger number of ships.

The breadth of the territorial waters of Yugoslavia has been set at ten miles from the low-water line, from lines enclosing entrances to bays, and from baselines

demarcating the inland waters. The merchant ships of all countries have the right of innocent passage through the territorial waters of Yugoslavia.

Warships also enjoy the right of innocent passage, but not more than three warships of the same State may simultaneously pass through the Yugoslavian territorial waters. Submarines must be surfaced during passage and must fly the flag.

Under a new law, an outer belt has been established with a breadth of two nautical miles, measured seaward from the outer boundary of the territorial waters.

Control is maintained over the outer zone in order to prevent violations of the customs, finance and sanitary regime, as well as the regime governing passage of the boundary, which violations could occur in the coastal zone, and also in order to punish those who violate the aforementioned regime.

The law extends the sovereignty of Yugoslavia over the continental shelf to a depth of 200 m and beyond this boundary to a line where the depth of the water above the ocean floor permits exploitation of the natural resources of the ocean floor and its subsoil.

Italy. The breadth of the territorial waters of Italy has been set at six nautical miles. There are also special sea zones, such as the 12-mile customs zone, the 10-mile security zone and the 6-mile neutrality zone. All of these zones are measured from a coastal feature or from the boundary of the inland waters.

The inland sea waters consist of the waters of ports, bases, inlets and bays with entrances not exceeding 20 nautical miles.

According to a decree of 24 August 1933, before calling in the territorial waters of Italy and passing through these waters in peacetime, foreign warships must send notification through diplomatic channels in advance. A maximum of three foreign warships flying the flag of any one State are permitted simultaneously in Italian waters in each sector of the coast.

In time of war the territorial waters are closed to navigation.

France. The regime of coastal sea waters of France was established under laws passed between 1794 and 1948. The breadth of the territorial waters of France has been set at three nautical miles and is measured from the high-water line and from the baselines at the entrance to bays. The latter were established under a decree of 9 July 1888. In addition to territorial waters, special sea zones of varying breadth have also been established.

Under a decree of 29 September 1929, foreign warships may pass through French territorial waters and the 6-mile security zone in peacetime, and they may also call at French ports after notice is given through diplomatic channels. Not more than three warships flying the flag of any one State may stay in the waters and ports of France at any one time in each sector into which the coast has been arbitrarily divided (English Channel, Atlantic coast and Mediterranean Sea).

Under a decree of 1 October 1934, no French merchant vessel, foreign warship or foreign merchant vessel may call in French territorial waters in wartime without advance permission, under threat of destruction. The zone in which calls are prohibited extends for six miles from the military ports of Cherbourg, Brest and Toulon.

Under a decree of 18 October 1912, France has adopted a 6-mile neutrality zone.

Foreign aircraft may not overfly French waters at Cherbourg, Brest, Lorient and Toulon, or a number of other points where prohibited zones have been established for a distance of 6 miles, or at a distance of three nautical miles from shore at all other points along the French coast.

The fishing zone coincides with the territorial waters.

Customs control has been established in a zone having a breadth of 10.8 nautical miles (20 km).

Spain. In accordance with a decree of 18 October 1913, the coastal sea waters of Spain consist of the inland sea waters, territorial waters with a 6-mile limit and special zones.

The breadth of the customs and fishing zones is six nautical miles, and the breadth of the neutrality zone is three nautical miles.

Innocent passage of warships through the territorial waters has been declared free. Before calling in the inland sea waters of Spain and at ports and bases, permission must be obtained through diplomatic channels.

Only Spanish citizens are permitted to fish within six nautical miles of the coast.

The regime of the coastal sea waters of Spain has been established in large measure through military agreements signed in recent years by the United States and Franco Spain. The United States Armed Forces obtained the right to use a number of naval and air bases on the coast of Spain and in the Balearic Islands, and also the right to base its nuclear submarines at Spanish naval installations.

Republic of Cyprus. In accordance with a law of 6 August 1964 extending the territorial sea, a 12-mile limit was established for the territorial waters of Cyprus, measured from the low-water line.

Morocco. A 3-mile limit has been established for the territorial waters of Morocco, measured from a coastal feature or from the boundary of the inland waters. The breadth of the fishing zone is 12 nautical miles. In the Strait of Gibraltar this zone has a breadth of six miles and does not pass beyond the median line of the Strait. The fishing zone is measured from a coastal feature or from the boundary of the inland waters, which include the waters of ports, inlets and bays with an entrance of 12 nautical miles.

Algerian People's Democratic Republic. Under a decree of 12 October 1963, a 12-mile limit was established for the territorial waters of Algeria.

Tunisia. A new law was passed in Tunisia in 1962 governing the regime of the territorial and inland sea waters. A 6-mile limit was established for the territorial waters along the coast from the border with Algeria to Cape Ras-Kaboudia. The Gulf of Tunis was declared part of the inland waters of the Republic.

From Cape Ras-Kaboudia to the Tunisian-Libyan border a 50-m fathom line delimits the territorial waters. At a number of points this line extends a significant distance from shore.

A 12-mile fishing zone was established.

Libya. Under a law of 18 February 1959, a 12-mile limit was established for the territorial waters of Libya.

United Arab Republic. The regime of the coastal sea waters of the UAR was established under a decree of 15 January 1951, supplemented and revised in 1958. (Basic revisions of the 1951 decree were contained in the decree of 17 February 1958 concerning Egyptian territorial waters.)

The decree stipulated that the territorial waters of the UAR begin immediately beyond the inland waters of the Republic and extend seaward for a distance of 12 nautical miles. Maritime control over the observance of laws and statutes relating to security and navigation, as well as in respect to fiscal and sanitary regulations, is exercised within a 6-mile zone beyond the territorial waters of the UAR. The latter provision does not extend to the fishing rights of the UAR.

The inland sea waters of the UAR consist of the following:

a) the waters of bays along the coastline;

b) the waters above underwater projections from the shore at a distance of not more than 12 nautical miles from the mainland or from any island of the UAR;

c) the waters between the mainland and any island of the UAR, extending for a distance of not more than 12 nautical miles from the mainland;

d) the waters between islands of the UAR, separated by not more than 12 nautical miles.

The territorial waters and the air space above them, the ocean floor and its subsoil are under the sovereignty of the UAR.

Before calling in the territorial waters of the UAR, foreign warships (with the exception of those transiting the Suez Canal) must obtain permission from the Government of the UAR. This permission is applied for in advance through diplomatic channels.

Israel. The regime of the coastal sea waters of the State of Israel is regulated under a resolution of 11 September 1955. The breadth of the territorial waters is six nautical miles.

A permission procedure has been established for passage of foreign warships.

Lebanon. The regime of the coastal sea waters of Lebanon is regulated under a law of 14 November 1921, as well as a number of other legislative acts approved later.

The breadth of the territorial waters of Lebanon is six nautical miles. Only citizens of Lebanon have the right to fish in these waters.

Radio control is exercised within a 20-km (10.8 nautical miles) zone. Within this zone customs control and criminal jurisdiction have been established. There is a permission procedure for passage of foreign warships.

Syrian Arab Republic. Under a law of 28 December 1963, a 12-mile territorial sea was established for Syria. Inland waters consist of bays, inlets and lagoons along the coast, as well as the waters between coastal islands, provided that the baseline or enclosing line separating these waters from the territorial waters does not exceed 12 miles in length.

Warships may pass through the territorial waters only with prior authorization. Submarines may pass through the territorial waters of Syria only in a surfaced condition. A 6-mile security, customs and sanitary zone has been established beyond the limits of the territorial waters.

Turkey. The breadth of the territorial waters of Turkey is six miles.[1]

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1. For further details, see Chapter III, Part II, of this Manual.

Malta. On 21 September 1964 another State gained its independence - Malta. There is no information available concerning new laws concerning the new territorial waters (they were set at three miles under British law).

The Principality of Monaco. Monaco has not passed any special laws establishing the breadth and regime of her territorial waters. According to a declaration of the Ministry of State of 8 October 1955, Monaco follows the universally recognized principles of international maritime law on this question.

Gibraltar (British Territory). Since 1704 Britain has occupied this strategically vital naval base at the entrance to the Strait of Gibraltar, which is the only exit from the Mediterranean Sea to the Atlantic Ocean.

Passage through the Strait of Gibraltar is free to merchant vessels and warships of all countries without formalities and restrictions.

CHAPTER V

INTERNATIONAL LEGAL REGIME OF THE CASPIAN SEA THEATER

1. Characteristics of the Theater

Only two States are included in the Caspian area: the Soviet Union and Iran.

The Caspian Sea is not connected by natural waterways either with the open sea or with the ocean, and, from the standpoint of international law, it is closed. Actually only the ships of the coastal States can sail on it.

Shipping lanes cross the Caspian Sea, connecting Soviet and Iranian ports, and are of great significance in the development of economic and other relations between the two countries.

From the first days of the October Revolution, the Soviet Government has maintained a good neighbor policy with respect to Iran. In a message to all toiling Mohammedans of Russia and the East, signed on 3 December 1917 by V. I. Lenin, the annulment of all inequitable agreements of the Tsarist Government was announced. In a special message to the Government and the people of Persia on 26 June 1919, the Soviet Government affirmed its rejection of the regime of capitulation[1] and of all

1. The "regime of capitulation" meant that the citizens of Western States in the countries of the East were freed from local jurisdiction.

privileges and concessions which Tsarist Russia had in Iran. As a result, all paved roads and railroads, wharves, harbor works, barges and other property which formerly belonged to Russia, were transferred to Iran.

The Soviet Government withdrew Russian troops stationed in Iran and, in a note dated 14 January 1918, informed the government of Iran that "it considers for itself permissible relations with Persia based on free agreement and mutual respect between peoples."

On 26 February 1921 the first Soviet-Iranian treaty was signed, annulling all inequitable treaties, conventions and agreements of the Tsarist Government with Iran.

A number of treaties and agreements between the Soviet Union and Iran, including an agreement on joint use of frontier rivers and waters (1926), an agreement on exploitation of fisheries on the southern shore of the Caspian Sea (1927), a security and neutrality treaty (1927), the Commerce and Navigation Treaty (1940) aided in further development of Soviet-Iranian relations and in settling certain questions, particularly the water regime of the Caspian Sea.

2. The Regime of Waters in the Theater

The regime of the waters of the Caspian area depends on the character of this sea. Not having an exit to the ocean, the Caspian Sea is a typical border lake between two states - the Soviet Union and Iran.

The boundary line of the Caspian Sea waters is an arbitrary line connecting the points where the land boundaries of both states meet the sea on the western and eastern shores, i.e., a line serving as an extension of the land boundary from Astara to Gasan-Kuli.

The general standards of international law applicable to the high seas, to ships and crews navigating on the high seas, and to research and exploitation of the natural resources of the high seas, do not extend to the Caspian Sea.

The legal regime of the Caspian Sea in force at the present time has been established under treaties and agreements between the coastal States - the Soviet Union and Iran.

3. Agreements Between the USSR and Iran

The Soviet-Iranian Treaty of 1921 restored the right of Iranian ships to sail on the Caspian Sea, annulled by the Turkmanchai Treaty of 1828. Ships of both sides may "to an equal degree, enjoy the right of free navigation on the Caspian Sea under their own flag."

Iranian ships sailing on the Caspian Sea should not have crew members who are citizens of third countries, and who utilize their stay in the Iranian Navy for purposes inimical to the USSR. The Soviet Government has the right to demand that Iran remove such persons from the Iranian Navy.

The Parties have agreed not to permit on their territories the establishment or existence of organizations, groups or even individuals whose purpose is to fight against Iran and Russia or against States allied with them. The recruitment or mobilization of personnel into the ranks of armies or armed forces of such organizations also should not be allowed on their territories. Neither side should bring onto the territory of the other or transport across it anything that may be utilized against the other Party.

The provisions of Art. 6 of the Treaty (see below) are of great direct significance to the security of the Soviet Union.

The legal regime of the Caspian Sea was developed further and manifested in the Soviet-Iranian Treaty of Commerce and Navigation of 25 March 1940. The Treaty established the navigational regime for ships, the procedure for them to call at ports and determined the regime of fishing and other questions.

Only ships belonging to the USSR and Iran, to their citizens, and to trade and transport organizations sailing under the flags of these States may utilize the Caspian Sea.

Only ships and citizens of the Soviet Union and Iran may engage in fishing anywhere on the sea, except for the 10-mile coastal belt of both Parties.

Provisions which prohibit fishing in the Caspian Sea to citizens of third countries were also contained in the agreement of 1 October 1927 concerning the Soviet-Iranian Company "Iranryba," engaged in fishing in the Caspian Sea. Since the Iranian government did not wish to continue this agreement when it expired (1953), it lapsed. However, Art. 4 of the agreement provided that the Iranian Government "assumes responsibility in event of nonrenewal of concessions to the company not to grant concession of these industries to third States or their

subjects for the next 25 years." The Iranian Government is obligated, moreover, during the 25-year period indicated, to exploit fisheries only with its own manpower and not to invite specialists other than Iranian subjects to exploit them.

According to treaties and statute concerning protection of fishery resources and the fishing industry in the waters of the USSR of 10 August 1951, Soviet and Iranian ships and citizens are entitled not only to free navigation and fishing throughout the entire sea, except for the 10-mile coastal zone, but also to engage in all types of commercial activity in their own waters. The resources of the continental shelf also belong to each Party within the limits of its respective area of the sea.

On 15 September 1962, as a result of an exchange of notes, the Government of Iran assumed the obligation not to allow its territory to be used for foreign missile bases. This obligation applies equally to territorial waters and Iran must not allow its area of the Caspian Sea to be used for the deployment of foreign military vessels armed with missiles.

From the treaties and agreements relative to the legal status of the Caspian Sea examined above, the following conclusions can be drawn:

1. The Caspian Sea is a Soviet and Iranian sea.

2. Only Soviet and Iranian merchant vessels have the right to sail the Caspian Sea. Their crews should consist of their own citizens.

3. In accordance with Soviet-Iranian treaties in force on the Caspian Sea, only Soviet and Iranian citizens have the right to fish throughout the sea, except for the 10-mile coastal belt, where each Party retains the right to fish from its own vessels.

4. Soviet and Iranian citizens may engage in commercial activity other than fishing only in their own waters.

5. Since in the Soviet-Iranian treaties there is no reference to the procedure for navigation of warships on the Caspian Sea and flights of aircraft over it,

Iranian warships have the right to sail in the Soviet area of the sea, and planes to overfly it, with the approval of Soviet authorities. The same also applies to Soviet military vessels and aircraft, when navigation and flights must be made in the Iranian area of the Caspian Sea.

6. The establishment of foreign missile and naval bases on the territory of Iran and in the Caspian Sea is prohibited, in accordance with an exchange of notes on 15 September 1962.

7. The statute on territorial waters does not extend to this sea, just as it does not extend to frontier lakes.

4. The State Boundary of the USSR and Iran

The Soviet-Iranian border is defined as established by the Demarcation Commission of 1881.

During demarcation of the Soviet Iranian border in 1953-1954, minor adjustments were made at certain points. On 2 December 1954, a Soviet-Iranian agreement was signed in Teheran to regulate frontier and fiscal matters. This agreement enabled both States to settle all questions related to the State boundary and mutual financial claims resulting from World War II. The agreement was ratified by the Presidium of the Supreme Soviet of the USSR on 25 April 1955.

In the Soviet-Iranian Agreement on reciprocal use of frontier rivers and waters concluded on 20 February 1920, both countries agreed to split the waters of the frontier rivers into a specific number of parts and to divide these between the Parties to the agreement.

Later, in order to solve at the proper time all problems arising during use of the waters of frontier rivers, and in order to prevent and control border incidents, etc., border commissars were established on the Soviet-Iranian border in accordance with an exchange of notes of 14 August 1927 and 15 October 1928. More detailed provisions of the legal regime of the border, the procedure for controlling border conflicts and incidents, and the rights and obligations of the border commissars and other questions were stipulated in the Soviet-Iranian Treaty of 19 December 1957.

Appendix XXIV

TREATY OF FRIENDSHIP BETWEEN PERSIA AND THE RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC, SIGNED AT MOSCOW, FEBRUARY 26, 1921.

The PERSIAN GOVERNMENT of the one part, and the RUSSIAN SOCIALIST FEDERAL SOVIET REPUBLIC of the other part, desiring to establish relations of friendship and fraternity between the two nations, have decided to engage in negotiations for this purpose, and have therefore appointed the following plenipotentiaries :—

For PERSIA : ALI GHOLI KHAN MOCHAVEROL-MEMALEK, and for RUSSIA : O. V. TCHITCHERIN and L. M. KARAKHAN,

who after the verification of their respective powers, have agreed as follows :

Article 1.

In order to confirm its declarations regarding Russian policy towards the Persian nation, which formed the subject of correspondence on January 14, 1918, and June 26, 1919, the R. S. F. S. R. formally affirms once again that it definitely renounces the tyrannical policy carried out by the Colonising Governments of Russia which have been overthrown by the will of the workers and peasants of Russia.

Inspired by this principle, and desiring that the Persian people should be happy and independent and should be able to dispose freely of its patrimony, the Russian Republic declares the whole body of treaties and conventions concluded with Persia by the Tsarist Government, which crushed the rights of the Persian people, to be null and void.

Article 2.

The R. S. F. S. R. expresses its reprobation of the policy of the Tsarist Governments of Russia, which, on the pretext of ensuring the independence of the peoples of Asia, concluded, without the consent of the latter, treaties with European Powers, the sole object of which was to subjugate these peoples.

This criminal policy, which infringed upon the independence of the countries of Asia and which made the living nations of the East a prey to the cupidity and the tyranny of European robbers, is abandoned unconditionally by Federal Russia.

Federal Russia, therefore, in accordance with the principles laid down in Articles 1 and 4 of this Treaty, declares its refusal to participate in any action which might destroy or weaken Persian sovereignty. It regards as null and void the whole body of treaties and conventions concluded by the former Russian Government with third parties in respect of Persia or to the detriment of that country.

Article 3.

The two Contracting Powers agree to accept and respect the Russo-Persian frontiers, as drawn by the Frontier Commission in 1881.

At the same time, in view of the repugnance which the Russian Federal Government feels to enjoying the fruit of the policy of usurpation of the Tsarist Government, it renounces all claim to the Achouradeh Islands and to the other islands on the Astrabad Littoral, and restores to Persia the village of Firouzeh and the adjacent land ceded to Russia in virtue of the Convention of May 28, 1893.

The Persian Government agrees for its part that the Russian Sarakhs, or "old" Sarakhs, and the land adjacent to the Sarakhs River, shall be retained by Russia.

The two High Contracting Parties shall have equal rights of usage over the Atrak River and the other frontier rivers and waterways. In order finally to solve the question of the waterways and all disputes concerning frontiers or territories, a Commission, composed of Russian and Persian representatives, shall be appointed.

Article 4.

In consideration of the fact that each nation has the right to determine freely its political destiny, each of the two Contracting Parties formally expresses its desire to abstain from any intervention in the internal affairs of the other.

Article 5.

The two High Contracting Parties undertake :

(1) To prohibit the formation or presence within their respective territories, of any organisations or groups of persons, irrespective of the name by which they are known, whose object is to engage in acts of hostility against Persia or Russia, or against the Allies of Russia.

They will likewise prohibit the formation of troops or armies within their respective territories with the afore-mentioned object.

(2) Not to allow a third Party or any organisation, whatever it be called, which is hostile to the other Contracting Party, to import or to convey in transit across their countries material which can be used against the other Party.

(3) To prevent by all means in their power the presence within their territories or within the territories of their Allies of all armies or forces of a third Party in cases in which the presence of such forces would be regarded as a menace to the frontiers, interests or safety of the other Contracting Party.

Article 6.

If a third Party should attempt to carry out a policy of usurpation by means of armed intervention in Persia, or if such Power should desire to use Persian territory as a base of operations against Russia, or if a Foreign Power should threaten the frontiers of Federal Russia or those of its Allies, and if the Persian Government should not be able to put a stop to such menace after having been once called upon to do so by Russia, Russia shall have the right to advance her troops into the Persian interior for the purpose of carrying out the military operations necessary for its defence. Russia undertakes, however, to withdraw her troops from Persian territory as soon as the danger has been removed.

Article 7.

The considerations set forth in Article 6 have equal weight in the matter of the security of the Caspian Sea. The two High Contracting Parties therefore have agreed that Federal Russia shall have the right to require the Persian Government to send away foreign subjects, in the event of their taking advantage of their engagement in the Persian navy to undertake hostile action against Russia.

Article 8.

Federal Russia finally renounces the economic policy pursued in the East by the Tsarist Government, which consisted in lending money to the Persian Government, not with a view to the economic development of the country, but rather for purposes of political subjugation.

Federal Russia accordingly renounces its rights in respect of the loans granted to Persia by the Tsarist Governments. It regards the debts due to it as void, and will not require their repayment. Russia likewise renounces its claims to the resources of Persia which were specified as security for the loans in question.

Article 9.

In view of the declaration by which it has repudiated the colonial and capitalist policy which occasioned so many misfortunes and was the cause of so much bloodshed, Federal Russia abandons the continuation of the economic undertakings of the Tsarist Government, the object of which was the economic subjugation of Persia. Federal Russia therefore cedes to the Persian Government the full ownership of all funds and of all real and other property, which the Russian Discount Bank possesses on Persian territory, and likewise transfers to it all the assets and liabilities of that Bank. The Persian Government nevertheless agrees that in the towns where it has been decided that the Russian Socialist Republic may establish Consulates, and where buildings exist belonging to the Discount Bank, one of these buildings, to be chosen by the Russian Government, shall be placed at the disposal of the Russian Consulate, free of charge.

Article 10.

The Russian Federal Government, having abandoned the colonial policy, which consisted in the construction of roads and telegraph lines more in order to obtain military influence in other countries than for the purpose of developing their civilisations, and being desirous of providing the Persian people with those means of communication indispensable for the independence and development of any nation, and also in order to compensate the Persian people as far as possible for the losses incurred by the sojourn in its territory of the Tsarist armies, cedes free of charge to the Persian Government the following Russian installations :

(a) The high-roads from Enzeli to Teheran, and from Kazvin to Hamadan, and all land and installations in connection with these roads.

(b) The rail-road Djoulfa-Tauris-Sofian Urmiah, with all installations, rolling-stock and accessories.

(c) The landing-stages, warehouses, steamships, canals, and all means of transport of the lake of Urmiah.

(d) All telegraph and telephone lines established in Persia by the Tsarist Governments, with all moveable and immoveable installations and dependencies.

(e) The port of Enzeli and the warehouses, with the electrical installation, and other buildings.

Article 11.

In view of the fact that the Treaty of Turkomantchai, concluded on February 10, 1828 (old style), between Persia and Russia, which forbids Persia, under the terms of Article 8, to have vessels in the waters of the Caspian Sea, is abrogated in accordance with the principles set forth in Article 1 of the present Treaty, the two High Contracting Parties shall enjoy equal rights of free navigation on that Sea, under their own flags, as from the date of the signing of the present Treaty.

Article 12.

The Russian Federal Government, having officially renounced all economic interests obtained by military preponderance, further declares that, apart from the concessions which form the subject of Articles 9 and 10, the other concessions obtained by force by the Tsarist Government and its subjects shall also be regarded as null and void.

In conformity with which the Russian Federal Government restores, as from the date of the signing of the present Treaty, to the Persian Government, as representing the Persian people, all the concessions in question, whether already being worked or not, together with all land taken over in virtue of those concessions.

Of the lands and properties situated in Persia and belonging to the former Tsarist Government, only the premises of the Russian Legation at Teheran and at Zerguendeh with all moveable and immoveable appurtenances, as well as all real and other property of the Consulates and Vice-Consulates, shall be retained by Russia. Russia abandons, however, her right to administer the village of Zerguendeh, which was assigned by the ex-Government of the Tsar.

Article 13.

The Persian Government, for its part, promises not to cede to a third Power, or to its subjects, the concessions and property restored to Persia by virtue of the present Treaty, and to maintain these rights for the Persian nation.

Article 14.

The Persian Government, recognising the importance of the Caspian fisheries for the food supply of Russia, promises to conclude with the Food Service of the Russian Socialist Federal Soviet Republic immediately upon the expiry of the legal period of these existing engagements, a contract relating to the fisheries, containing appropriate clauses. Furthermore, the Persian Government promises to examine, in agreement with the Government of the Russian Socialist Federal Soviet Republic, the means of at once conveying the produce of the fisheries to the Food Service of Soviet Russia pending the conclusion of the above contract.

Article 15.

In accordance with the principle of liberty of conscience proclaimed by Soviet Russia, and with a desire to put an end, in Moslem countries, to religious propaganda, the real object of which was to exercise political influence over the masses and thus to satisfy the rapacity of the Tsarist Government, the Government of Soviet Russia declares that the religious settlements established in Persia by the former Tsarist Governments are abolished. Soviet Russia will take steps to prevent such missions from being sent to Persia in the future.

Soviet Russia cedes unconditionally to the nation represented by the Persian Government, the lands, property and buildings belonging to the Orthodox Mission situated at Urmia, together with the other similar establishments. The Persian Government shall use these properties for the construction of schools and other institutions intended for educational purposes.

Article 16.

By virtue of the communication from Soviet Russia dated June 25, 1919, with reference to the abolition of consular jurisdictions, it is decided that Russian subjects in Persia and Persian subjects in Russia shall, as from the date of the present Treaty, be placed upon the same footing as the inhabitants of the towns in which they reside; they shall be subject to the laws of their country of residence, and shall submit their complaints to the local courts.

Article 17.

Persian subjects in Russia and Russian subjects in Persia shall be exempt from military service and from all military taxation.

Article 18.

Persian subjects in Russia and Russian subjects in Persia shall, as regards travel within the respective countries, enjoy the rights granted to the most favoured nations other than countries allied to them.

Article 19.

Within a short period after the signature of the Present Treaty, the two High Contracting Parties shall resume commercial relations. The methods to be adopted for the organisation of the import and export of goods, methods of payment, and the customs duties to be levied by the Persian Government on goods originating in Russia, shall be determined, under a commercial convention, by a special commission consisting of representatives of the two High Contracting Parties.

Article 20.

Each of the two High Contracting Parties grants to the other the right of transit for the transport of goods passing through Persia or Russia and consigned to a third country.

The dues exacted in such cases shall not be higher than those levied on the goods of the most favoured nations other than countries allied to the Russian Socialist Federal Soviet Republic.

Article 21.

The two High Contracting Parties shall open telegraphic and postal relations between Russia and Persia within the shortest possible period after the signature of the present Treaty.

The conditions of these relations shall be fixed by a postal and telegraphic convention.

Article 22.

In order to consolidate the good relations between the two neighbouring Powers and to facilitate the realisation of the friendly intentions of each country towards the other, each of the High Contracting Parties shall, immediately after the signature of the present Treaty, be represented in the capital of the other by a Plenipotentiary Representative, who shall enjoy the rights of extra-territoriality and other privileges to which diplomatic representatives are entitled by international law and usage and by the regulations and customs of the two countries.

Article 23.

In order to develop their mutual relations, the two High Contracting Parties shall establish Consulates in places to be determined by common agreement.

The rights and duties of the Consuls shall be fixed by a special agreement to be concluded without delay after the signature of the present Treaty. This agreement shall conform to the provisions in force in the two countries with regard to consular establishments.

Article 24.

This Treaty shall be ratified within a period of three months. The exchange of ratifications shall take place at Teheran as soon as possible.

Article 25.

The present Treaty is drawn up in Russian and Persian. Both texts shall be regarded as originals and both shall be authentic.

Article 26.

The present Treaty shall come into force immediately upon signature.

In faith whereof the undersigned have signed the present Treaty and have affixed their seals thereto.

Done at Moscow February 26, 1921.

(Signed) G. TCHITCHERIN.
L. KARAKHAN
MOCHAVEROL-HEMALEK.

No. 2654.

ANNEX I.

Sir, TEHERAN, *December* 12, 1921.

The Persian Government and the Mejlis have observed that Articles 5 and 6 of the Treaty concluded between our two countries are worded vaguely; the Mejlis moreover, desires that the retrocession of Russian concessions to the Persian Government should be made without reserve or condition, and, that Article 20 should be so worded as to allow the Persian Government full powers for the transit of imports and exports. Conversations have taken place with you on these questions, and you have given explanations with regard to Articles 5 and 6 and promises concerning Articles 13 and 20, to the effect that if the Treaty were passed by the Mejlis you would give all the assistance in your power to ensure that the two Articles in question should be revised on the lines desired by the Mejlis and the Persian Government. The Persian Government and the Mejlis are most desirous that friendly relations should be re-established between our two Governments, and that the Treaty, which is based upon the most amicable sentiments, should be concluded as soon as possible.

I have, therefore, the honour to request you to give in writing your explanations with regard to the interpretation of Articles 5 and 6, and to repeat the promises of support which you have already given as regards the revision of Articles 13 and 20, in order that the Persian Government may be enabled to secure the passing of the Treaty by the Majlis.

I also wish to ask you to take the necessary steps to repair the error which has been made in Article 3, in which the word "commission" was written instead of "treaty", as the only treaty which was concluded in 1881 was a frontier delimitation treaty, and this is the treaty referred to in Article 3.

I have the honour to be, Sir, etc.

(Signed) MOCHAROS-SALTANEH.

No. 1600.

ANNEX II.

TEHERAN, *December* 12, 1921.

YOUR EXCELLENCY,

In reply to your letter dated 20th day of Ghows, I have the honour to inform you that Articles 5 and 6 are intended to apply only to cases in which preparations have been made for a considerable armed attack upon Russia or the Soviet Republics allied to her, by the partisans of the regime which has been overthrown or by its supporters among those foreign Powers which are in a position to assist the enemies of the Workers' and Peasants' Republics and at the same time to possess themselves, by force or by underhand methods, of part of the Persian territory, thereby establishing a base of operations for any attacks — made either directly or through the counter-revolutionary forces — which they might meditate against Russia or the Soviet Republics allied to her. The Articles referred to are therefore in no sense intended to apply to verbal or written attacks directed against the Soviet Government by the various Persian groups, or even by any Russian émigrés in Persia, in so far as such attacks are generally tolerated as between neighbouring Powers animated by sentiments of mutual friendship.

With regard to Articles 13 and 20, and the small error to which you draw attention in Article 3 with reference to the Convention of 1881, I am in a position to state categorically, as I have always stated, that my Government, whose attitude towards the Persian nation is entirely friendly, has never sought to place any restriction upon the progress and prosperity of Persia. I myself fully share this attitude, and would be prepared, should friendly relations be maintained between the two countries, to promote negotiations with a view to a total or partial revision of those Articles on the lines desired by the Persian Government, as far as the interests of Russia permit.

In view of the preceding statements, I trust that, as you promised me in your letter, your Government and the Majlis will ratify the Treaty in question as soon as possible.

I have the honour to be, Your Excellency, etc.

(Signed) ROTSTEIN,
Diplomatic Representative of the
Russian Socialist Federal Soviet Republic.

Appendix XXV

TREATY OF COMMERCE AND NAVIGATION BETWEEN IRAN AND THE USSR

25 March 1940

Article 1. On the importation of natural and industrial products, originating in the customs territory of one of the High Contracting Parties, into the customs territory of the other, customs duties and other charges shall be levied on such products at the lowest rate for which provision has been, or will be, made in the customs tariff and laws of the importing country. But in any event the rate of customs duty and other charges shall not be less favorable than, or different from, the rate charged on products whose origin is a third country.

Similarly, natural and industrial products, originating in the customs territory of one of the Parties, and destined for export to the customs territory of the other, shall not on the occasion of their export be subjected to a customs treatment less favorable than, or different from, that accorded to similar products exported to a third country.

Article 2. Each of the High Contracting Parties undertakes to grant to the other most-favored-nation treatment in the following matters:

(a) In the conditions applied to the collection of the customs duties, additional charges, and charges referred to in Article 1.

(b) In the warehousing of goods specified in Article 1; in the use of customs and other public warehouses for such goods; in the arrangement, acceptance, and storage thereof at ports and warehouses; and similarly in their clearance from the aforesaid places.

(c) In the classification of goods for customs purposes; in the interpretation of the ordinary tariffs in what concerns the regulations, obligations, and payments which may be applied to the operations relating to the payment of customs dues on goods.

(d) In the imposition of internal charges on the goods of one of the High Contracting Parties in the customs territory of the other, charges relating to the production, manufacture, movement, consumption, or transport of goods of equivalent kinds, in whosoever's name and for whosoever's benefit such charges are made.

Each of the High Contracting Parties undertakes, in connection with the provisions of Section (d) of this Article, to ensure for the other, without prejudice to the principle of most-favored-nation treatment, the advantages of the national treatment accorded to its own goods on its own territory.

Article 3. Each of the two High Contracting Parties undertakes not to enforce, in respect of imports from or exports to the customs territory of the other, any restrictions or prohibitions which are not applicable to all other countries, with the exception of restrictions and prohibitions relating to the maintenance of public order, national security or health, or to the prevention of plant or animal pests, which are applied without exception to all countries which are in the same situation.

Article 4. Most-favored-nation treatment, as provided for in Articles 1 and 2 of this Treaty, and below in Articles 8, 10 (Section 7), 11 and 12 (Section 5), shall not include the following:

(1) Rights and privileges arising out of any customs union.

(2) Rights and privileges which the U.S.S.R. has granted, or may in future grant to Latvia, Lithuania, Finland or Estonia.

(3) Facilities which either of the High Contracting Parties has granted, or may in future grant, for the exchange of goods in frontier zones, not exceeding a width of fifteen kilometers on either side of the frontier.

Article 5. The U.S.S.R. has a Commercial Agency attached to its Embassy in Iran. The functions of this Commercial Agency are as follows:

(a) Assistance in extending the economic relations between the U.S.S.R. and Iran.

(b) The representation of the interests of the U.S.S.R. in the field of foreign trade.

(c) The organisation in the name of the U.S.S.R. of commercial transactions.

(d) Trade between the U.S.S.R. and Iran.

The Commercial Agent of the U.S.S.R. and both of his substitutes shall be members of the diplomatic staff of the Embassy of the U.S.S.R. in Iran, and shall enjoy all the rights and privileges granted to diplomatic missions.

The premises of the Commercial Agent of the U.S.S.R. in Tehran shall enjoy extraterritorial rights.

The Commercial Agency of the U.S.S.R. in Iran has the right to the use of codes.

The Commercial Agency of the U.S.S.R. shall publish in the Iranian "Official Gazette" the names of persons authorized to perform legal acts on its behalf, specifying the authority delegated to every such person in respect of the signature of the commercial undertakings of the Commercial Agency of the U.S.S.R. On the termination of any such person's authority, the Commercial Agency of the U.S.S.R. shall publish the fact in the Iranian "Official Gazette", and at its discretion in one of the newspapers published in the locality where the person holding the authority exercised his functions. The date of the termination of the authority of any person shall be the day on which the announcement was first published.

The Commercial Agency of the U.S.S.R. in Iran shall, as before, have branches at Pahlevi, Tabriz and Meshed, and shall have the right, subject to the consent of the Iranian Ministry of Commerce, to open branches as required at other places in Iran.

Article 6. The Commercial Agency of the U.S.S.R. in Iran acts in the name of the Government of the U.S.S.R. The Government of the U.S.S.R. holds itself responsible for all commercial transactions whatsoever which take place or are guaranteed on behalf of the Commercial Agency by the operation of persons holding authority from that Agency.

In order that the commercial transactions concluded or guaranteed by the Commercial Agency of the U.S.S.R. in Iran shall be recognized as valid, the documents of the transaction or guarantee must bear the signature of persons authorized for this purpose by the Government of the U.S.S.R. or the People's Commissariat for Foreign Trade, whose names shall have been published in the Iranian "Official Gazette" by the Commercial

Agency of the U.S.S.R., with a statement of the authority granted to each, as provided for in Article 5 of this Treaty.

All commercial transactions concluded or guaranteed on Iranian territory by the Commercial Agency of the U.S.S.R. in Iran, if the document on which the transaction is based contains no provision for arbitration, are subject to the jurisdiction of Iranian courts and Iranian law.

As by virtue of this Article the Government of the U.S.S.R. takes responsibility for the transactions concluded or guaranteed on Iranian territory by its Commercial Agency in Iran, the regulations regarding the giving of legal security and the preliminary execution of orders issued through judicial or administrative channels shall not apply in the case of claims brought against the Commercial Agency.

Only final judgments which have become legally enforceable, and which concern differences arising out of transactions for which the Commercial Agency of the U.S.S.R. has given a signature or guarantee in accordance with the second paragraph of this Article, shall be compulsorily enforced in respect of the Commercial Agency of the U.S.S.R.

Such judgments shall be enforced in respect of the property and rights of the Commercial Agency of the U.S.S.R. in Iran which relate to the transactions contemplated in this Article, and similarly in respect of other property of the Commercial Agency situated in Iran. Nevertheless, the enforcement of judgments contemplated in the preceding paragraph of this Article shall not apply to property which in generally accepted usage of international law is deemed to be covered by extraterritoriality, nor to articles necessary for the administrative conduct of the Commercial Agency of the U.S.S.R. in Iran.

Article 7. The responsibility for commercial transactions performed, without the guarantee of the Commercial Agency of the U.S.S.R. in Iran, on the part of one of the economic organisations of the U.S.S.R., which is endowed under the laws of the U.S.S.R. with the attributes of an independent legal personality, shall lie solely with the organisation in question. Responsibility for these transactions shall not be attributable to the Government of the U.S.S.R., or its Commercial Agency in Iran, or other economic organisations of the U.S.S.R.

Commercial transactions concluded on the part of these organisations in Iran shall, in the absence of any provision for arbitration in the document of the transaction, be subject

to the jurisdiction of Iranian courts and Iranian law.

Article 8. Iranian traders, craftsmen and natural or legal persons who have acquired legal personality under the laws of Iran, while pursuing their economic activities in the territory of the U.S.S.R., whether directly or through the agency of persons appointed by them, shall enjoy, in respect of their persons and property, and within the limits of the conditions accorded by the laws of the U.S.S.R. for the conduct of such activities, the rights accorded to the subjects and legal persons of the most-favored-nation.

The state economic organizations of the U.S.S.R., and other legal persons of the Soviet possessing legal personality under the laws of the U.S.S.R., as well as natural persons who are Soviet subjects, while pursuing their economic activities in the territory of Iran, shall enjoy, in respect of their persons and property, and within the limits of the conditions accorded by the laws of Iran for the conduct of such activities, the rights accorded to the subjects and legal persons of the most-favored-nation.

The subjects and legal persons of each of the High Contracting Parties shall enjoy equal rights with the subjects and legal persons of the country itself to have free recourse to courts of law of all degrees, for the purpose of filing and defending suits; and in no case of this kind shall they enjoy less favorable treatment than the subjects and legal persons of the most-favored-nation. But it is understood that none of the provisions of this Treaty entitles the trading companies or other economic organizations of one of the High Contracting Parties to demand the special privileges which the other Party accords to companies whose operations in its territory have been or will be regulated by some special instrument of concession.

Article 9. (1) The Commercial Agency of the U.S.S.R. in Iran and the economic organizations of the Soviet are permitted, with due regard to the laws and regulations concerning the foreign trade of Iran, to purchase freely and without let or hindrance for export to the U.S.S.R. all kinds of Iranian goods, other than those whose export from Iran is the subject of a government prohibition applicable to all countries.

(2) The U.S.S.R. has the right to import goods within the limits of quotas to be fixed for each year of the validity of the present Treaty of Commerce and Navigation. A list of these goods, with the quota for each, shall be drawn up annually by the Commercial Agency of the U.S.S.R. in Iran and the Iranian Ministry of Commerce.

For the first year under this Treaty the list shall be drawn up at the time of signature, and for the subsequent years at the beginning of each Iranian financial year.

In drawing up the lists for the subsequent years there shall be at least the same percentage of the U.S.S.R.'s quotas relating to each of the classes of goods mentioned in the general quota provided for the first year.

The Commercial Agency of the U.S.S.R. in Iran may also include in the list of goods authorized by the Iranian Government to be imported during the current financial year, other goods not mentioned in that list. The Commercial Agency of the U.S.S.R. in Iran and the Iranian Ministry of Commerce shall fix the quantity of such goods, and the Iranian Ministry of Commerce shall give favorable consideration to the proposals of the Commercial Agency of the U.S.S.R. in this matter.

The quota for each class of imports included in the list may in the course of the year be increased by agreement between the Commercial Agency of the U.S.S.R. in Iran and the Iranian Ministry of Commerce.

Whenever during the validity of this Treaty the Iranian Government, by raising the annual quotas, increases the quantity of a foreign commodity to be imported into Iran, a share in the increase, proportionate to the quota of Iran's imports of that commodity assigned to the U.S.S.R. before the increase in the annual quotas was made, shall be allotted to the U.S.S.R.

In the event of the Iranian Government giving permission for the import of fixed quotas of a commodity whose import is at present forbidden, the U.S.S.R. shall be given the right to take up a share of the import in question during the validity of this Treaty, and this share shall be fixed by agreement between the Commercial Agency of the U.S.S.R. and the Iranian Ministry of Commerce. The Iranian Ministry of Commerce shall give favorable consideration to the proposal of the Commercial Agency of the U.S.S.R. in this matter.

(3) The Iranian Government shall give the necessary assistance to the Commercial Agency of the U.S.S.R. in Iran in the conclusion of commercial contracts with the departments and associations of the Iranian Government, and with the associations operating on behalf of the Government, for the purchase of Iranian and the sale of Soviet goods, the handling of which is within the scope of the departments and associations in question, at the usual rates and under the usual conditions.

The Government of the U.S.S.R. agrees for its part that the total value of Soviet imports into Iran, sold for rials according to the relevant contracts to the Iranian Government and to the departments and associations above mentioned, shall at least not be less than the total value of goods purchased in rials from the Iranian Government and the departments and associations above mentioned, and exported from Iran.

(4) The Commercial Agency of the U.S.S.R. in Iran and the economic organizations of the Soviet shall have the right to sell Soviet goods to Iranian merchants, associations of merchants, and non-governmental associations, and to purchase Iranian goods from the said Iranian merchants and associations.

The Government of the U.S.S.R. agrees that the total value of Soviet goods imported into Iran and sold to merchants, associations of merchants, and non-governmental associations for rials, shall at least not be less than the total value of goods purchased in rials from the said traders and associations, and exported to the U.S.S.R.

(5) The Commercial Agency of the U.S.S.R. in Iran and the economic organizations of the Soviet, when obtaining licenses to import goods into Iran in accordance with the annual quotas, shall be exempt from the production of certificates of export of Iranian goods.

The Iranian Ministry of Commerce shall issue without hindrance to the Commercial Agency of the U.S.S.R. in Iran and to the economic organizations of the Soviet, licenses to import goods according to the annual quotas provided for in Section (2) of this Article. The list mentioned in that Section shall be tantamount to a general license.

(6) The Iranian Government agrees not to enforce exchange restrictions, which are at present in force or which may be brought into force during the validity of this Treaty, in respect of the organizations of the Soviet, where such restrictions would interfere with the operation of this Treaty.

(7) The Iranian Government shall grant to the Commercial Agency of the U.S.S.R. in Iran, as well as to the economic organizations of the Soviet, the right to participate in all tenders called for by Iranian departments for the purchase of materials and accessories from abroad, with the benefit of the same conditions enjoyed by all participants.

(8) The Iranian Government agrees to grant to the Commercial Agency of the U.S.S.R. in Iran and to the economic organisations of the Soviet, the right to set up filling stations in Iran and to construct petroleum storage tanks and other buildings necessary for dealing in petroleum and its products, in accordance with the laws and regulations in force during the validity of this Treaty.

(9) It is agreed that every six months a commission, composed of an equal number of members drawn from accredited representatives of the Iranian Ministry of Commerce and the Commercial Agency of the U.S.S.R. in Iran, shall review the results of commercial operations during the preceding six months' working of the Treaty of Commerce and Navigation in order to keep the course of trade between the two Parties in conformity with the spirit and purport of this Treaty.

Article 10. (1) Taking into account the commercial interests of Iran, and in conformity with Article 20 of the Treaty dated February 26, 1921, between Iran and the R.S.F.S.R., and in order to fulfil the intentions thereof, the U.S.S.R. shall grant free transit across its territory for Iran's natural and industrial products destined for any third country.

Iran for its part shall grant free transit across its territory for the natural and industrial products of the U.S.S.R. destined for any third country.

(2) In addition, the U.S.S.R. shall grant to Iranian commercial associations and merchants the right of free export to any destination whatsoever of natural and industrial products imported into its territory from Iran and not sold there. Upon its being shown that the goods exported by Iranian commercial associations and merchants are identical with those imported, any customs duties that may have been paid on them at the time of import shall be refunded to Iranian commercial associations and merchants upon their export from the customs territory of the U.S.S.R.

These same rights shall be granted by the Iranian Government to the organisations and departments of the U.S.S.R. that are engaged in trade.

(3) The U.S.S.R. shall grant free transit to Iran across its territory for the following natural and industrial products, originating in countries having a commercial treaty, protocol or convention with the U.S.S.R.:

(a) Machinery, accessories and materials for factories

and for agricultural undertakings. Machinery, accessories and materials for building and maintaining houses and buildings. Machinery, accessories, requisites and materials for road construction. Means of transport of all kinds and for all purposes, and for the needs of institutions of public utility.

(b) Medicines of all kinds, surgical instruments and artificial limbs.

(c) Paper and printed matter.

(d) Silkworm eggs.

(e) Tea.

(f) Apparatus and materials for lighting and heating.

(g) Bicycles, motor cycles, automobiles, lorries and their accessories and spare parts.

(4) The right of free transit across the territory of the U.S.S.R. shall be granted with regard to goods not intended for commercial purposes, irrespective of their nature, with the exception of arms and war material, ordered by the Iranian Government from a third country having a commercial treaty, protocol or convention with the U.S.S.R.

Similarly, with regard to goods not intended for commercial purposes, irrespective of their nature, with the exception of arms and war material, ordered by the Iranian Government, and produced in countries not having a commercial treaty, protocol or convention with the U.S.S.R., the U.S.S.R. shall give all favorable consideration and all facilities possible, in respect of an application for the right of transit for such orders.

(5) It is understood that the transit of postal parcels across Soviet territory to Iran, regulated by the special convention dated August 2, 1929, is in no way prejudiced by the provisions of this Article, and that the provisions of the said convention remain in force.

(6) Iran shall grant free transit across its territory to the U.S.S.R. for natural and industrial products of countries having a commercial treaty, protocol or convention with Iran, with the exception of arms and war material.

(7) It is agreed that each of the High Contracting Parties

shall grant to the other most-favored-nation treatment in the application of conditions of transit provided for above.

Article 11. The High Contracting Parties agree to grant to each other, on a basis of reciprocity, most-favored-nation treatment in respect of the transport of passengers, baggage, goods and other effects by rail, and in general by land, sea and air routes.

Each of the High Contracting Parties agrees to grant to the other most-favored-nation treatment, both in respect of the fares, freight rates and all other charges connected with transport, and in respect of the ordering, arrangement and speed of transport on all the routes mentioned above.

Article 12. (1) Vessels plying in the Caspian Sea under the flag of either of the High Contracting Parties shall be treated in all respects in the same manner as the national vessels when in the ports of the other High Contracting Party, whether during arrival, stay in port or departure.

(2) The vessels in question shall pay no port dues other than those imposed by law upon the national vessels, under the same conditions and with the same exemptions.

For purposes of collection of the above dues, the following articles shall not be deemed to be imports or exports:

(a) Passengers' baggage not forming part of the cargo; that is to say, everything conveyed on a baggage check, and small hand baggage.

(b) Fuel and provisions for crews and passengers and the necessary equipment of the vessel, up to the amount required for the voyage, on condition that the said necessities are not landed from the vessel and left in port.

(c) Cargo landed by reason of damage sustained by the vessel or of some other accidental stop, on condition that such cargo is re-embarked for forwarding to the port of destination.

(d) Cargo carried by vessels of under three and a half tons burden.

(e) Cargo transshipped for the purpose of continuing its voyage.

(3) Cabotage is the exclusive right of the national

vessels of the High Contracting Parties; nevertheless, it is agreed that each of the High Contracting Parties shall grant the right of cabotage for the transport of passengers and cargo on the Caspian Sea to vessels plying under the flag of the other Party.

(4) Notwithstanding the provisions set forth above, each of the High Contracting Parties reserves for its own vessels the exclusive right of fishing in its coastal waters up to a limit of ten nautical miles, and reserves the right to grant special facilities and privileges in connection with imports of fish caught by vessels under its own flag.

(5) Vessels plying under the flag of one of the High Contracting Parties in seas other than the Caspian shall enjoy most-favored-nation treatment in the territorial waters ("abha-i-kishvari", which can mean "territorial waters" only) and ports of the other High Contracting Party, in the matter of navigation and dues of all kinds.

(6) Towing vessels having other craft in tow shall be exempt from payment of port dues (calculated on tonnage basis).

Article 13. The High Contracting Parties are agreed that, according to the fundamental principles set forth in the Treaty of February 26, 1921, between Iran and the R.S.F.S.R., no vessels other than those belonging to Iran or to the U.S.S.R or to the subjects or the commercial or civil governmental transport organizations of one of the High Contracting Parties, flying the flag of Iran or of the U.S.S.R., may exist anywhere in the Caspian Sea.

Article 14. Tonnage certificates for shipping, given by the competent authorities of the High Contracting Parties to vessels under the flag of Iran or of the U.S.S.R. in the Caspian Sea, and notified by those authorities on behalf of either of the High Contracting Parties to the other, shall be officially accepted on a basis of reciprocity in the ports of the two governments. Vessels holding such certificates shall not be subject to further assessment in the ports of the other Party. Furthermore, certificates of seaworthiness, load lines and other technical documents of navigation, supplied to ships by the authorities mentioned above, shall be accepted on a basis of reciprocity in the Caspian ports of both of the High Contracting Parties.

Article 15. The High Contracting Parties are agreed that, in respect of sanitary measures to be undertaken in the case of the vessels of either of the High Contracting Parties in the

Caspian ports of the other, the provisions of the International Sanitary Convention signed in Paris on June 26, 1926, shall be applied, but with due regard to the observations made by each of the High Contracting Parties at the time of signature.

Article 16. This Treaty shall be ratified. This Treaty is concluded for a period of three years, and shall come into force as from the day of the exchange of ratifications, which shall take place as soon as possible in Moscow.

But the Treaty shall come into force provisionally as from the date of signature. The interval between the signature and the exchange of ratifications shall be counted as part of the said period of three years.

Should either of the High Contracting Parties fail to signify its denunciation of this Treaty six months previous to the expiration of the said three-year period, the Treaty shall tacitly be deemed to be prolonged for an indefinite period.

In that case the Treaty may be denounced at any time after six months' notice. This Treaty is drawn up in two copies, each copy being written in the Persian and Russian languages, and each of the two texts is of equal validity.

Done in Tehran, the fifth day of Farvardin 1319, equivalent to the twenty-fifth day of March 1940. In witness whereof the aforesaid plenipotentiaries have affixed thereunto their signatures and seals.

Appendix XXVI

EXCHANGE OF NOTES BETWEEN THE PLENIPOTENTIARY REPRESENTATIVE OF THE USSR IN IRAN AND THE MINISTER OF FOREIGN AFFAIRS OF IRAN CONCERNING THE CASPIAN SEA

Letter of the Plenipotentiary Representative of the USSR in Iran to the Minister of Foreign Affairs of Iran, 25 March 1940.

Sir:

I have the honor to inform you of the following:

In view of the fact that the Caspian Sea, which is considered by both High Contracting Parties as a Soviet and Iranian sea, is of exceptional interest to the High Contracting Parties, it has been established that both governments will take the necessary measures so that citizens of third countries who are serving on board ships of the respective Parties to the treaty and in its ports on the Caspian Sea will not utilize their service and stay on board such ships and in the ports for purposes which go beyond their service obligations.

Accept, Excellency, assurances of my highest consideration.

Teheran, 25 March 1940

Letter of the Minister of Foreign Affairs of Iran to the Plenipotentiary Representative of the USSR in Iran, 25 March 1940.

Dear Mr. Ambassador:

I have the honor to acknowledge receipt of your letter of 25 March 1940, containing the following:

"In view of the fact that the Caspian Sea, which is considered by both High Contracting Parties as a Soviet and Iranian sea, is of exceptional interest to the High Contracting Parties, it has been established that both governments will take the necessary measures so that citizens of third countries who are serving on board ships of the respective Parties to the treaty and in its ports on the Caspian Sea will not utilize their service and stay on board such ships and in the ports for purposes which go beyond their service obligations."

In noting the contents of the above letter, I beg you to accept, Mr. Ambassador, assurances of my highest esteem.

Appendix XXVII

EXCHANGE OF NOTES BETWEEN THE SOVIET UNION AND IRAN CONCERNING THE OBLIGATION OF IRAN NOT TO PERMIT THE ESTABLISHMENT OF FOREIGN MISSILE BASES ON HER TERRITORY

15 September 1962

Note of the Minister of Foreign Affairs of Iran:

"The Iranian Ministry of Foreign Affairs conveys its esteem to the Embassy of the Union of Soviet Socialist Republics, and in developing the foregoing negotiations deems it necessary to inform the Embassy that the Iranian Government, in order to proclaim its good will and to strengthen the bonds of friendship between our two countries, wishes, through this note, to convey to the Government of the Union of Soviet Socialist Republics its assurances that it will not grant any foreign country the right to have missile bases of any type on the territory of Iran."

Note of the Embassy of the USSR in Iran:

> The Embassy of the Union of Soviet Socialist Republics in Iran expresses its esteem to the Ministry of Foreign Affairs of Iran and has the honor to announce that the Government of the USSR has taken into consideration the note of the Iranian Government, of 15 September 1962, which stated:
>
> "The Iranian Ministry of Foreign Affairs conveys its esteem to the Embassy of the Union of Soviet Socialist Republics, and in developing the foregoing negotiations deems it necessary to inform the Embassy that the Iranian Government, in order to proclaim its good will and to strengthen the bonds of friendship between our two countries, wishes, through this note, to convey to the Government of the Union of Soviet Socialist Republics its assurances that it will not grant any foreign country the right to have missile bases of any type on the territory of Iran."

Statement of the Minister of Foreign Affairs of the Government of Iran in the Name of His Government, on 15 September 1962, in an Exchange of Notes:

> "I officially declare that, as His Majesty the Shah has frequently stated, the Government of Iran will never allow Iran to become an instrument of aggression against the territory of the Soviet Union."

Reply of the Ambassador of the USSR in Iran, in an Exchange of Notes:

"The Government of the Union of Soviet Socialist Republics has taken into consideration the official statement of the Government of Iran that, as his Majesty the Shah has frequently pointed out, the Government of Iran will never allow Iran to become an instrument of aggression against the territory of the Soviet Union. The Soviet Government expresses its confidence that the statement made by the Iranian Government, as well as the exchange of notes regarding refusal to grant foreign States the right to have missile bases of any type on Iranian soil, will serve to strengthen the foundation of good-neighbor relations between the USSR and Iran and the interests of peace and security in the Near and Middle East."

CHAPTER VI

INTERNATIONAL LEGAL REGIME OF THE PACIFIC OCEAN THEATER

1. Characteristics of the Theater

The Pacific Ocean theater is one of the broadest ocean theaters in the world. More than a billion people live in the Pacific Basin. International ocean routes passing through the Pacific Ocean connect the countries of this basin with each other and with countries in other parts of the world. The waters of the Pacific Ocean contain rich reserves of fish, sea mammals and other types of ocean flora and fauna.

In view of its economic wealth, the Pacific Ocean theater and the countries and islands located within its confines constitute one of the prime objectives of the expansionist policy of the imperialist States (the United States, Great Britain, Japan, etc.).

The United States has imposed one-sided treaties on several countries in the Pacific Ocean Basin, has established military bases on the territory of many of these countries and maintains armed forces there.

The United States illegally occupies the island of Taiwan, which belongs to the People's Republic of China.

On the basis of the one-sided treaty of cooperation and security signed between the United States and Japan on 19 January 1960, the United States continues to transform the Japanese islands into a springboard for nuclear war against the Soviet Union and to actively assist in the remilitarization of Japan. The United States illegally occupies South Korea and is preventing the peaceful reunification of Korea. The United States has a large number of military, naval and air bases, as well as nuclear missile launching sites, in the Pacific Ocean Basin. Based at ports and military installations in Taiwan and the Japanese islands, the U.S. 7th Fleet is openly performing the functions of a military striking force aimed at the national liberation movement of the peoples of the Pacific and Indian Ocean Basins.

The United States 7th Fleet is participating in barbarous bombing missions against peaceful targets in the Democratic Republic of Vietnam, illegally interfering with freedom of navigation in the Gulf of Tonkin and committing acts of provocation against ships of the USSR and other nations.

At the urging of the United States, aggressive blocs were created in the Pacific and Indian Ocean Basins: SEATO (1954), which includes the United States , Great Britain, France, Australia, New Zealand, the Philippines, Thailand and Pakistan, and ANZUS (1951), which includes the United States, Australia and New Zealand.

The so-called Association of Southeast Asia (ASA), consisting of the Philippines, Thailand and Malaya (Malaysia), was formed in 1961.

The Soviet Union and other Socialist States, in cooperation with the neutralist nations of the Pacific Ocean Basin, are attempting to transform this area into a zone of peaceful, friendly relations between States and peoples - into a nuclear-free zone.

2. Agreements Between the USSR and the Coastal States

The Soviet Union has a number of bilateral and multilateral agreements with the nations of the Pacific Ocean Basin, the most important of which is the Treaty of Friendship, Alliance and Mutual Assistance between the USSR and the People's Republic of China, signed in Moscow on 14 February 1950.

The USSR and the Peoples Republic of China were called upon to take all measures at their disposal to prevent a repetition of the aggression and disturbance of the peace by Japan or any other State directly or indirectly allied with Japan in acts of aggression.

In order to maintain and strengthen peace and security in the Far East and throughout the entire world, a Treaty of Friendship, Cooperation and Mutual Assistance was signed in Moscow on 6 July 1961 between the USSR and the People's Democratic Republic of Korea. If one of the Contracting Parties is subjected to an armed attack by any State or coalition of States and is consequently in a state of war, the other Contracting Party must immediately render military and other assistance with all the resources at its disposal.

The Big Three Crimean agreement of 11 February 1945 on the problems of the Far East is of great importance. This agreement recognized the age-old historic rights of the USSR to Sakhalin and the Kurile Islands, i.e., the southern part of Sakhalin Island and all of its offshore islands, as well as the Kurile Islands, were returned to the Soviet Union.

The 1867 treaty in which Russia sold Alaska to the United

States established the national boundaries of the USSR and the U.S. in the Bering Strait, as well as the limits of their respective national interests in the Bering Sea.

The Governments of the USSR and Japan signed a Convention on Fishing on the High Seas in the Northwest Pacific Ocean on 14 May 1956, in order to establish rational control over fishing in the Northwest Pacific.

The problems involved in collaborating in the saving of life at sea and rendering assistance to ships and aircraft in distress at sea were reflected in agreements signed:

a) between the USSR and Japan on 14 May 1956; and
b) between the USSR, the People's Republic of China and the People's Democratic Republic of Korea on 3 July 1956.

A regular steamship route was formally established between ports of the USSR and Japan (Nakhodka-Yokohama) under an agreement signed on 3 June 1958. Moreover, treaties of commerce and navigation were signed between the USSR and the People's Republic of China on 23 April 1958 and between the USSR and the Democratic Republic of Viet Nam on 12 March 1958.

3. Regime of Waters in the Theater

Regime of coastal waters of the United States. The coastal waters of the United States consist of inland waters, the territorial sea and special zones.

The inland waters consist of the waters of ports, naval bases, bays and inlets along a line with an entrance width of 10 nautical miles, as well as historic bays. The United States regards as its historic bays the Chesapeake Bay, the mouth of which has a breadth of 12 nautical miles; Delaware Bay; Monterey Bay, with an entrance width of approximately 19 nautical miles, etc.

Under the neutrality declaration of 1793, a 3-mile territorial sea was established for the United States.[1]

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[1] The 3-mile territorial sea was reaffirmed in a 1923 Supreme Court decision.

Special sea zones of the United States include the 12-mile customs inspection zone and the so-called security zone established along the Pacific Coast in 1959, a belt of sea with a breadth of over 100 nautical miles and extending for about 500 nautical miles. Moreover the United States establishes zones along its coast, and at times at considerable distances, for firing practice and other exercises, which interfere with navigation.

The regime of coastal waters of the United States has its own peculiarities. Innocent passage of warships and merchant vessels through the territorial sea and special zones has been formally declared free. A 1922 tax law authorizes boarding, inspection, arrest and confiscation of ships anywhere in the territorial sea or within four leagues (12 nautical miles) of the United States coast if they have violated any of the laws of the United States.

The 1935 U. S. Contraband Law authorized the President to determine the "area of jurisdiction of the customs laws" and to include in this area all waters within 100 nautical miles of a point or immediate zone where, by declaration of the President, a certain ship or ships are suspected of transporting contraband.

Instances are observed in which foreign merchant ships in American waters are ordered to take on board an American armed escort. Such a measure was taken, inter alia, against British ships in October 1953 and provoked a protest from the British Federation of Shipowners. The so-called Bartlett Law was passed in 1964, which the United States is using in its attempt to control ships navigating along its coast.

The right to fish and to engage in other maritime industries in the territorial sea is reserved to U. S. citizens and organizations. With respect to fishing, a Presidential Proclamation and Order of 28 September 1945 established the following prohibited fishing zones in the high seas contiguous to the U. S. coast:

a) prohibited zones in which fishing has been developed or will be developed by, and is restricted to, American citizens; fishing is regulated and controlled by U. S. authorities in these zones;

b) prohibited zones in which fishing has been developed or will be developed, and will be engaged in jointly, by citizens of the United States and other States; fishing must be regulated and controlled in these zones by agreement between the United States and other interested States.

Moreover, the Government of the United States has established so-

called sea frontier areas around North America. In the vicinity of Alaska, such an area embraces a considerable section of the Pacific Ocean north of the 40th Parallel North Latitude, i.e., an area which is always open to navigation by warships of any country. Its southern boundary passes along the 40th Parallel North Latitude to the 165th Meridian East Longitude. It continues to the northwest to the limits of the Soviet territorial sea at the southern tip of Kamchatka and north to the Bering Strait, and thence to the North Pole.

The northern section of the Pacific included in this area and almost two-thirds of the Bering Sea have been arbitrarily assigned to the zone of operations of the U.S. 17th Naval District, together with the forces and facilities under its command.

Such a law violates the basic principles of international law and is an illegal infringement of freedom of navigation on the high seas.

Regime of the coastal waters of Canada. The coastal waters of Canada consist of inland waters, the territorial sea and special zones. The inland waters of Canada comprise the waters of ports and naval bases, as well as bays and inlets the entrance width of which does not exceed 10 nautical miles. Canada has a 3-mile territorial sea. Canada has the following special sea zones: a 9-mile customs inspection zone (under the customs law of 13 July 1906, amended in 1936) and a 12-mile fishing zone.

Innocent passage of foreign warships through the Canadian territorial sea has been formally recognized as free, although Canada reserves the right to restrict passage in its own security interest. Passage of foreign merchant ships through its territorial sea is considered free.

Regime of the coastal waters of Japan. The coastal waters consist of inland waters, the territorial sea and special sea zones. The inland waters of Japan include the waters of ports, naval bases and bays and inlets, the entrance width of which does not exceed 10 nautical miles, as well as the waters of the Inland Sea (Seto-naikai). Japan has a 3-mile territorial sea. Japan has a special 12-mile zone in which radio communication is prohibited.

The passage of foreign warships and merchant vessels through the Japanese territorial sea has been formally recognized as free, although Japan, like Canada, reserves the right to restrict passage in its own security interests.

Under the Mutual Assistance and Security Pact between the

United States and Japan, of January 19, 1960,[2] U. S. ground, air and naval forces were granted the right to use the maintenance facilities and territory of Japan. The U.S. Armed Forces retained the right of control over several naval bases in Japan (Yokosuka, Kure, Maizuru, Sendai, Sasebo, etc.), as well as large areas of the coastal waters, using them as training grounds for submarines, minelaying and gunnery fire.

These and other measures by the United States in effect restrict the sovereignty of Japan and incite her to adventures which endanger the peace.

Regime of the coastal waters of the People's Democratic Republic of Korea. The coastal waters of the People's Democratic Republic of Korea consist of inland waters and the territorial sea.

The inland waters of the People's Democratic Republic of Korea include the East Korea Bay, i.e., the waters bounded by the east coast of the Korean People's Democratic Republic from the 38th Parallel North Latitude to the port of Songjin on the one hand, and a straight line connecting this port with a point on the East Korean Coast located on the 38th Parallel, on the other.

The Korean People's Democratic Republic has a 12-mile territorial sea, measured from the low-water line.

Foreign warships must have prior approval from the Government of the People's Democratic Republic of Korea before calling in the territorial sea. A similar permission procedure has also been established for flights by foreign aircraft in the air space above the territorial sea.

Passage of merchant ships through the territorial sea is permitted provided that rules and laws regulating the regime of the territorial sea are observed.

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2 A 1960 treaty rescinded the so-called administrative agreement of 28 February 1952 between the U.S. and Japan.

The right to fish and engage in maritime industries in the territorial sea is reserved to citizens and organizations of the People's Democratic Republic of Korea.

Regime of the coastal waters of South Korea. The coastal waters of South Korea consist of inland waters and the territorial sea.

The inland waters include the waters of ports, naval bases and bays. The 10-mile rule is used to demarcate inland and territorial waters in bays.

The breadth of the territorial sea is officially set at three nautical miles, and is measured from the low-water line and from the outer limit of the inland waters. However, in violation of existing international legal rules, South Korean officials have repeatedly declared their rights to waters within the so-called Syngman Rhee Line, which in a number of places extends more than 60 nautical miles from the coast.

The regime of the coastal waters of South Korea is characterized by the fact that these waters have been converted to a permanent United States naval base and a testing ground for various types of weapons.

The South Korean ports of Inchon, Pusan, etc. are being used for anchorage and maintenance of warships of the U. S. Navy.

Innocent passage of warships and noncombatant vessels is formally permitted within South Korean coastal waters, provided that appropriate navigation rules are observed.

Foreign ships and citizens may not engage in fishing within a coastal belt with the following limits:

30° 00' N.	132° 50' E.
35° 00' N.	130° 00' E.
34° 40' N.	129° 10' E.
32° 03' N.	127° 00' E.
32° 00' N.	124° 00' E.
39° 45' N.	124° 00' E.

The line continues to the western part of Sindo Island (Renchen, North Pyongan).

Regime of the coastal waters of the Chinese People's Republic. The regime of the coastal waters of the Chinese People's Republic was established under a 1958 declaration on the territorial sea by the Chinese Government.

The coastal waters include the inland waters and territorial sea. The inland waters include the waters between the coastline and baselines, which are lines demarcating the inland waters and territorial sea. The inland waters also include Po Hai and Wenchou Strait.

A 12-mile territorial sea has been established. This applies to all of the territory of the Chinese People's Republic, including Mainland China and its offshore islands as well as Taiwan and nearby islands: the Pescadores, Tungsha Tao, Ta Shan, Chung-sha, Nanshan and all other islands belonging to China and separated from the mainland and its coastal islands by the high seas. The territorial sea of China is a belt of sea extending 12 nautical miles seaward from the baseline.

The baseline of the territorial sea (baseline for measurement of the territorial sea) along the coastline of the mainland and around its coastal islands is a line consisting of straight lines connecting points of departure on the mainland coast and on the outer edge of the coastal islands. The islands inside the baseline, including Tun-yin, Kao-teng Tao, Matsu, Pai-ch'üan Lieh-tao, etc., are in Chinese inland waters.

Foreign warships and other military vessels may enter the Chinese territorial sea only with the permission of the Government of the People's Republic of China. Such a permission procedure has been established for flights by all types of foreign aircraft (military and nonmilitary) in the air space above the territorial sea of China.

The permission procedure for calls by foreign warships in the territorial sea of China and flights by foreign aircraft in the air space above the Chinese territorial sea is applicable also to Taiwan and nearby islands (Pescadores, Tungsha Tao, Ta Shan, Chung-sha, Nanshan and to all other islands belonging to China), as well as to the territorial sea around these islands.

Foreign ships proceeding to ports of the People's Republic of China must communicate this at the proper time through the following address: Dal'niy, Vneshtorg, Moragentstvo.

These notifications must include the following information: name and class of the ship, call sign, gross and net tonnage, length, beam and draft of the ship (in meters) load and in ballast, total number of crewmembers, surname of the ship's master, color of the hull and funnel, cruising speed of the ship, date of arrival, port of destination and other data.

Any foreign vessel passing through Chinese territorial waters must observe appropriate laws and rules established by the Government of the People's Republic of China. Moreover, according to the declaration of the Government of the People's Republic of China on the territorial sea of 4 June 1964, the waters of the Taiwan Straits are inland waters of China, closed to navigation by all foreign warships. Foreign merchant ships passing through the Strait must observe established rules.

Appendix XXVIII

DECLARATION OF THE CHINESE GOVERNMENT ON THE TERRITORIAL SEA OF CHINA

(Extract)

The Government of the People's Republic of China declares that:

1) the breadth of the territorial sea of the People's Republic of China is established at 12 nautical miles. This applies to all territories of the People's Republic of China, including Mainland China and its offshore islands, as well as Taiwan and its offshore islands (Pescadores, Tungsha Tao, Ta Shan, Chang-sha, Nanshan) and all other islands belonging to China which are separated from the mainland and its offshore islands by the high seas;

2) the baseline of the territorial sea of China along the mainland coast and around its offshore islands is a

line consisting of straight lines connecting base points on the mainland coast and base points on the outer edge of the offshore islands. The territorial sea of China consists of a belt of sea extending 12 nautical miles seaward from this baseline. Chinese inland waters include waters inside the baseline, including Po Hai and Wenchou Strait. The islands of the Chinese inland waters consist of islands located inside the baseline, including the following: Tun-yin, Kao-teng Tao, Matsu, Pai-ch'üan Lieh-tao, Ta-tan, Wu-ts'u-yü, Quemoy and Little Quemoy, Erh-tan and Tung-ting Tao.

3) no foreign military ships or foreign aircraft may enter the Chinese territorial sea or the air space above it without the approval of the Government of the People's Republic of China.

Any foreign ship passing through the Chinese territorial sea must observe appropriate laws and rules established by the Government of the People's Republic China;

4) the principles specified in Pars. 2 and 3 are also applicable to Taiwan and its offshore islands (the Pescadores, Tungsha Tao, Ta Shan, Chung-sha, Nanshan) and to all other islands belonging to China.

Taiwan and the Pescadores Islands are still occupied by the Armed Forces of the United States. This is an illegal infringement on the territorial integrity and sovereignty of the People's Republic of China. Taiwan, the Pescadores Islands and other such areas must be returned, and the Government of the People's Republic of China is justified in recovering these areas with all appropriate means at some suitable time. This is an internal Chinese affair and outside interference is intolerable.

Appendix XXIX

RULES GOVERNING PASSAGE OF FOREIGN MERCHANT SHIPS THROUGH THE HAINAN STRAIT

1. For the sake of convenience in controlling navigation of merchant ships through the Hainan Strait, the Government of the People's Republic of China has established a Hainan Strait Administration. This administration

is responsible for observance of the following rules.

2. The Hainan Strait zone, under the control of the Strait Administration and called the Control Zone, is bounded on the east by a line connecting the "Ma-lan T'ou" Beacon (20° 09.3" N., 110° 41'.1" E.) with the "Lan-kou-hou" Light (20° 25.7" N., 110° 30' 9" E.), called the East Line, and on the west by a line connecting the lights "Lin-hao" (20° 00.4" N., 109° 42.1" E.) and "Chiao-wei Chiao" (20° 13.5" N., 109° 55.7" E.), called the West Line.

3. In order to pass through the Hainan Strait, merchant vessels must:

a) request permission by radio for the right of passage through the Strait from the Strait Administration 24 hours prior to the proposed approach to the Control Zone, communicating the name of the ship, its nationality, displacement, speed, hull color, funnel marking, points of origin and destination, and also departure time;

b) after permission to make passage through the Strait is obtained, communicate to the Strait Administration 24 hours before entering the Control Zone the exact time the ship will enter the zone.

All radiograms related to approval for a ship to pass through the Hainan Strait must be sent to the Strait Administration through the Shanghai Shipping Office, telegraph address: Navigation Bureau, Port of Haikou.

4. Whenever the Strait Administration deems it necessary, it may cancel approval already granted for passage through the Strait.

5. Passage through the Strait is permitted only during daylight hours. A ship may enter the Control Zone after sunrise and leave it before sunset. Depending upon cruising speed, the Strait Administration designates the exact time at which a ship must enter and leave the Control Zone.

6. All foreign merchant ships enter and leave the Hainan Strait in the middle of the fairway, except for cases in which special permission is granted by the Strait Administration.

7. In passing through the Control Zone, all ships must proceed through a fairway bounded:

on the south by a line connecting the points:

a) four nautical miles on the East Line from the "Mu-lan T'ou" Beacon;

b) four nautical miles on the West Line from the "Lin-kao" Light;

on the north by a line connecting the points:

c) six nautical miles on the East Line from the "Mu-lan T'ou" Beacon;

d) four nautical miles 180° from the "Pai-hui Chiao" Light (20° 15' 0" N., 110° 16.9' E.)

e) fourteen nautical miles on the West Line from the "Lin-kao" Light.

8. Ships must closely observe the established time and course during passage through the Control Zone. Moreover, signals from shore or from patrol boats must be answered immediately and obeyed without question.

9. Radar equipment may not be used during passage through the Hainan Strait. If due to thick fog, heavy rain or other conditions, a ship is hampered by poor visibility requiring the use of radar, the ship must request permission from the Strait Administration to use its radar, indicating the reasons, its position and speed. The radar equipment is turned on after permission is obtained. In event of danger threatening the safety of the ship, the radar equipment may be put into operation the very moment the request for permission to use it is made, followed by a detailed report to the Strait Administration on the situation, indicating when the radar equipment is turned on and shut off.

10. Ships may not photograph or take measurements during passage through the Strait.

11. The following measures will be taken against ships violating these rules:

a) if the ship has not yet entered the Control Zone, it may receive instructions to stop and change course in order to proceed around Hainan Island, or to stop and wait until the necessary formalities are out of the way before permission is received to pass through the Strait;

b) if the ship has already entered the Control Zone, it may be instructed to stop, after which it may be escorted to the port of Hai'ou for inspection and the adoption of measures based upon the results of the inspection.

Depending upon measures taken and the circumstances, a ship may receive permission to pass through the Strait or it may be ordered to leave the Control Zone, and may even be escorted out of the Strait.

Chart No. 7335.
Basis. Communication of 19 December 1964.
"Notices to Mariners," Directorate of the Hydrometeorological Service of the Soviet Navy, No. 14, 3 April 1965, No. 2166.

Regime of the coastal waters of the Philippines. The coastal waters of the Philippines consist of inland waters and the territorial sea. A 3-mile territorial sea has been recognized in several legal decisions. There are no special laws governing the regime of the territorial sea.

Under the so-called mutual defense treaty concluded between the United States and the Philippines in 1947, the territorial sea, ports and bases of the Philippines have been adapted to accommodate U. S. naval forces.

The United States imposed an agreement on the Philippines under which it obtained, on a 99-year "lease," portions of its territory, including ports and waters, for its military bases. Principal bases for United States warships in the Philippine Islands are located at Cavite, Olongapo, Leyte, Malapay, Puerto Princesa, Sangley Point, Subic Bay and Cubi Point.

In the territorial sea and air space above the bases and around them the United States enjoys all the rights, authority and power necessary to assure access to these

bases and to exercise control over them. The Armed Forces of the United States, warships, merchant vessels, aircraft and transport means have free access to American bases and freedom of movement between ports and bases by land, through the air and by sea throughout the entire territory of the Philippines, including the territorial sea.

The United States reserved to itself the "right" to conduct hydrographic surveys and to make aerial photographs of the entire Philippines and adjacent waters. The so-called U. S. Military Advisory Group, established on the basis of the 1947 treaty, actually controls the entire governmental apparatus and all aspects of the activity of the Republic of the Philippines. This accounts for the fact that the regime of the coastal waters of the Philippines does not differ substantially from that of the United States.

Regime of the coastal waters of Indonesia. The coastal waters of Indonesia consist of inland waters and the territorial sea.

According to a resolution of the Council of Ministers of the Republic of Indonesia of 13 December 1957, all inland seas and straits and the waters around the islands comprising Indonesia, and the waters between the islands, irrespective of their breadth or extent, are an integral part of the territory of Indonesia and are therefore inland waters, under the exclusive sovereignty of Indonesia.

Considering the geographical location of Indonesia, the land territory of which is an archipelago consisting of thousands of islands, the entire archipelago and waters between the islands are regarded as a single entity in order to assure the territorial integrity and to protect the resources of the State of Indonesia.

In accordance with the aforementioned resolution, the inland waters of Indonesia consist of the following:

1) the Java Sea, Bali Sea, Flores Sea, Savu Sea, Molucca Sea, Halmahera Sea, Ceram Sea and Banda Sea;

2) Karimata Strait, between the islands of Borneo and Belitung, the breadth of which is approximately 120 nautical miles;

3) The Makassar Strait, with a breadth of 65 to 140 nautical miles;

4) other waters of the Indonesian archipelago.

A 12-mile territorial sea has been established around the outer islands of the Indonesian archipelago.

The breadth of the territorial sea is measured from straight baselines connecting the outermost points of the Indonesian islands. The baselines are drawn between base points, of which there are approximately two hundred.

According to the aforementioned resolution of the Government of the Republic of Indonesia, peaceful navigation of foreign vessels (merchant and military) is permitted in the inland waters provided they do not violate the sovereignty and security of the State of Indonesia.

Innocent passage of warships and auxiliary vessels through the territorial sea is also permitted under the same conditions.

Appendix XXX

DECLARATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA ON ITS TERRITORIAL SEA

13 December 1957

From a geographical point of view, Indonesia, which is an archipelago consisting of thousands of islands, has its own distinguishing characteristics.

In order to assure the territorial integrity and protection of the resources of the State of Indonesia, the entire archipelago and the waters between its islands must be regarded as a single entity.

The limits of the territorial sea indicated in Decree No. 442 (1939) on the territorial sea and naval districts, Art. 1, do not agree with the above, since the

land territory of Indonesia is divided into areas separated from its territorial sea.

On the basis of the above considerations, the Government declares that all of the waters around and between the islands comprising Indonesia, irrespective of their breadth and extent, are an integral part of the land territory of Indonesia and are thus part of the inland waters or national waters, under the exclusive sovereignty of Indonesia. Innocent passage of foreign ships in the inland waters is assured, as long as they do not violate the sovereignty and security of the State of Indonesia.

The limits of the territorial sea (with a breadth of 12 nautical miles) are measured from a line connecting the outermost points of the Indonesian islands.

PART III

THE STRUGGLE OF THE USSR FOR PEACE AND THE PREVENTION OF WAR. INTERNATIONAL MARITIME LAW IN WARTIME

PROHIBITION OF WARS OF AGGRESSION. THE WARSAW TREATY AND ITS ROLE IN MAINTAINING PEACE IN EUROPE. INTERNATIONAL LEGAL STATUTES AFFECTING WAR AT SEA. NAVAL BLOCKADE. NEUTRALITY. RIGHTS AND OBLIGATIONS OF NEUTRAL STATES. CESSATION OF WAR. PEACE TREATIES WITH GERMANY AND JAPAN.

CHAPTER I

THE PROHIBITION OF WARS OF AGGRESSION

1. The Struggle of the USSR to Strengthen the Common Peace

The most important task of the policy of the Soviet Union and other Socialist countries is to maintain and strengthen a durable peace and to prevent a new war, a new aggression. Under present-day international conditions, real opportunities have been created to prevent the aggressive forces of imperialism from unleashing a new world war, which, at the present level of development of military technology, would bring incalculable suffering and hardship to the peoples of the world.

In its foreign policy, the Soviet Union has proceeded and will proceed on the basis of the fundamental Leninist principle of the possibility of peaceful coexistence between governments having different socio-economic systems.

On the second day after the victory of the Great October Socialist Revolution, the Soviet Government stated in its historic Declaration of Peace, signed by V. I. Lenin, that a democratic peace is a peace without bribes or ransom, based on a recognition of the right of nations to self-determination. From that time on, the Leninist principle of peaceful coexistence of two social systems has consistently determined the entire foreign policy of the Soviet Union.

The peaceful coexistence of Socialist and capitalist States, as stated in the program of the CPSU, proposes: "The rejection of war as a means of solving disputes between States, resolution of them through negotiation, equal justice, mutual understanding and trust between States; regard for the interests of one another; noninterference in one's internal affairs; the recognition that each country has the right to solve its problems independently; strict respect for the sovereignty and territorial integrity of all countries; the development of economic and cultural cooperation on the basis of complete equality and mutual benefit."

The Soviet Union and other peace-loving countries, in struggling for peaceful settlement of international disputes, rely on the progressive principles of international law, above all the Charter of the United Nations, which prohibits aggressive wars and establishes the principles of peaceful settlement of controversial questions.

The proposals set forth in the Declaration on Strengthening Peace and Security in Europe and in the Declaration on United States Aggression in Vietnam are of especially great significance in guaranteeing peace. Both of these documents were approved on 5 July 1966 by Warsaw Treaty members at the Bucharest Meeting of the Political Advisory Committee.

2. The USSR in the Struggle for Disarmament

The question of disarmament or reduction of arms by States as a means of preventing war or reducing the scale of resultant damage has arisen repeatedly in history. At the turn of the 19th Century the two Hague Peace Conferences of 1899 and 1907 were devoted to this question, but the participants did not reach any decision.

The question of disarmament was decisively raised for the first time only after the October Revolution, by the Soviet Government, which, starting with the Genoa Conference of 1922, has continually fought for complete and total disarmament. The Soviet Union has frequently introduced concrete and constructive proposals for the reduction of arms and the prevention of more barbarous means of killing people, and actively participated in the Preparatory Committee on Disarmament at the League of Nations in 1925 and in the Disarmament Conference of 1929-1933. The imperialist powers rejected the Soviet proposals and used the disarmament conference as a screen to conceal the unrestrained arms race, leading to the outbreak of World War II.

In the postwar period, the USSR again raised the question of arms reduction, followed by total and complete disarmament, regarding this as a necessary prerequisite for the prevention of a new world war in general, and as a means of saving mankind from a thermonuclear war.

In the struggle for disarmament, the Soviet Union and other Socialist countries, operate from the new balance of power in the international arena, keeping in mind such important factors as:

a) the existence of a world Socialist system which plays a decisive role in the development of mankind and represents the most important factor for peace;

b) the decay of the colonial system of imperialism, and the development on its ruins of a number of new States interested in peace and disarmament;

c) the international workers' and world Communist movement;

d) the movement of the advocates of peace in all countries, opposing war and the arms race.

However, "peace does not arise of itself. It can be defended and strengthened only by the joint efforts of all peace-loving forces," according to the Appeal to the Peoples of the World, approved by the Communist Parties of the world in 1960. The most important means of achieving this is complete and total disarmament. The announcement of the representatives of the Communist parties of 1960 states: "Achievement of this program would eliminate the very possibility of waging war between countries."[1]

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1. "Program Documents of the Struggle For Peace, Democracy and Socialism," pp 62, 90.

The Soviet Union has consistently taken the initiative in raising the question and in developing a specific program of disarmament. As early as 14 December 1946, by proposal of the USSR, the General Assembly of the United Nations approved important resolution No. 41(1) - Principles Determining Overall Control and Reduction of Arms - in which the prevention and removal from national arms stockpiles of atomic weapons and all other weapons of mass destruction was considered an urgent task. The Sixth Session of the United Nations approved on 11 January 1952 a resolution on the regulation, limitation and proportionate reduction of the armed forces and all weapons and the international control of atomic energy.

In 1959, at the 14th Session of the General Assembly of the United Nations, the USSR offered a proposal for complete and total disarmament. This proposal was adopted in the resolution on complete and total disarmament, unanimously passed at that Session, and was reconsidered at the following (15th) Session, in 1960.

The Soviet Government firmly supports strict and effective international control over disarmament. However, it categorically opposes the arms control program by the imperialists, since it substitutes armament for disarmament and a system of espionage for control.

The Soviet Union has repeatedly demonstrated its wish to disarm, has unilaterally reduced its own armed forces and has also stopped testing thermonuclear weapons.

As a result of her persistent efforts to secure prohibition of nuclear weapons, in August 1963 the Soviet Union succeeded in obtaining a treaty banning nuclear weapons tests on the ground, in the atmosphere and under water.

3. The Warsaw Pact and Its Role in Guaranteeing European Security

Reasons for concluding the Warsaw Pact. The Warsaw Pact is an important and necessary form of political collaboration among the European Socialist States. This Pact was in response to establishment by the Western Powers in 1946-1954 of the Brussels, North Atlantic and other aggressive pacts, and became the basic collective security organization for a number of European countries. The immediate reaction to establishment of the Warsaw Pact Organization was the signing and ratification of the Paris Agreements of 23 October 1954, paving the way for entry of German militarism into the North Atlantic Treaty Organization (NATO). West German militarism became the striking force of world imperialist aggression in Europe.

In the course of the seven years preceding conclusion of the Warsaw Pact, the USSR and other Socialist countries repeatedly proposed to the Western Powers that a common system of collective security be created in Europe. These proposals were rejected by the Western Powers under the influence of aggressive circles in the United States. The proposal of the Soviet Government that the question of

entry of the USSR into membership in the North Atlantic Pact be discussed was also not accepted. The signing of the Paris Agreements intensified the actual danger of aggression against the Socialist countries in Europe; consequently, these countries were forced to take necessary countermeasures. The Warsaw Treaty of Friendship, Cooperation and Mutual Aid among the eight States of the Socialist system, signed on 14 May 1955, was such a countermeasure.

Objectives and principles of the Warsaw Pact. The objectives of the Treaty fully comply with the United Nations Charter. According to the Preamble, the Warsaw Pact was concluded by its participants for the purpose of "taking necessary measures to guarantee their security and to maintain peace in Europe." Moreover, as stated in Art. 2 of the Treaty, the signatory States declared their readiness "to participate, in a spirit of sincere collaboration, in all international activities having as their objective the guaranty of international peace and security." According to Art. 1 of the Treaty, its signatories took upon themselves the obligation to resolve their disputes solely by peaceful means. Thus the single-mindedness of the pact is in full accord with Art. 1 of the United Nations Charter.

In the Declaration to Strengthen Peace and Security in Europe, approved on 5 July 1966 at the Bucharest Meeting of the Political Advisory Committee, it is emphasized that the Warsaw Pact is a defense pact of sovereign and equal States, and is a weapon to protect the security of the signatories to the Treaty and to maintain peace in Europe.

In Art. 4 of the Warsaw Treaty, the conditions are stipulated under which the obligation for joint action by the armed forces of the signatory States comes into force. The unified armed forces may be put into action only in event of an "armed attack in Europe on one or several member States by any State or group of States." This provision basically distinguishes the Warsaw Pact from the imperialist military pacts, in which the concept of aggression (attack) is applied, without foundation, to cases in which the military conflict does not have an international character, and also when no attack (aggression) occurs.

In accordance with Art. 51 of the U.N. Charter, the signatories to the Warsaw Pact are obligated, in exercising their right to individual or collective self-defense, to render aid immediately to the State or States attacked, either individually or in agreement with the other signatories to the Pact, by all necessary means, including armed force. The signatories to the Pact are also obliged, in accordance with the U.N. Charter, to inform the Security Council of measures taken by them and to halt these measures as soon as the Security Council takes necessary measures to restore and maintain international peace and security.

The principles of the Warsaw Pact also differ fundamentally from the principles which typify the imperialist organizations.

In accordance with the provisions of the U.N. Charter, the Warsaw Pact is based on the principles of sovereign equality and noninterference in the internal affairs of its members and third States. This reflects one of the most important aspects of relations between the Treaty members, who function as completely equal partners.

Provisions regarding sovereign equality are totally absent from the treaties which established NATO and other aggressive military blocs, since these organizations were created by the United States so that it could utilize the territory and economic resources of the members of these military blocs for its own selfish ends, without regard for the sovereignty of other members of these organizations. Also there are no provisions governing noninterference in the imperialist treaties establishing military blocs, since these treaties were specially designed for interference by the United States in the internal affairs of the treaty members and of third countries.

The Warsaw Pact is open to participation by any State in Europe, since it is an open treaty which provides a procedure which differs basically from the procedure for joining closed military groups such as NATO, etc. For this reason, the Warsaw Pact provides an excellent basis for the organization of a common system of collective security in Europe and the guaranty of peaceful coexistence among States with differing systems.

The establishment of a common European collective security treaty would result in the Warsaw Pact losing its force, and Art. 11 directly provides for such a possibility.

However, the foregoing does not exhaust the essence of relations between the member States of the Warsaw Pact. The purpose of the Pact is to strengthen friendship, collaboration and mutual assistance, which constitute the basic meaning of the principle of proletarian internationalism, which lies at the foundation of relations between Socialist countries.

Structure of the Warsaw Treaty Organization. In order to discuss the most important international questions and to resolve issues relating to organization of joint defense, the members of the Warsaw Pact established a Political Advisory Committee, which includes either a member of the Government or a specially designated representative from each member State of the organization. According to Art. 6 of the Warsaw Treaty, the Committee was established for the purpose of giving advice and examining questions arising in connection with implementation of the Pact. The Pact provides for regular, urgent and emergency consultations.

Regular consultations are held on all important international questions affecting the common interests of parties to the Pact. Depending on the overall evaluation of the international situation, the Committee indicates which measures should be taken in the interest of easing international tension, improving relations with other countries and strengthening international peace and security. Thus the Committee unilaterally approved repeated reduction of armaments and the armed forces of the Pact members, unilateral cessation by the Soviet Union of nuclear weapons tests, the withdrawal of Soviet troops from Rumania, etc. Urgent and emergency consultations are of an extraordinary nature, and according to Arts. 3 and 4 of the Warsaw Treaty, should be undertaken in event of immediate danger of military attack. Urgent consultations should be held in event of a threat of armed attack on one or several Treaty members, and emergency consultations should be held in event of an armed attack on them by any State or group of States. Such consultations are intended to determine joint measures necessary for the common defense or for restoration and maintenance of international peace and security.

In 1956, under Art. 6 of the Warsaw Pact, two auxiliary organs were created for the Committee: the Permanent Committee for Recommendations on Foreign Policy Issues and the Joint Secretariat.

For continuous and effective settlement of special problems of joint defense of the countries participating in the Warsaw Pact, a Unified Command of the Armed Forces was established, together with a Headquarters of the Unified Armed Forces of the member States.

The Unified Command of the Armed Forces consists of a Commander-in-Chief and his deputies. The military commander of the Armed Forces of any member State in the Warsaw Pact, regardless of the position occupied by him in his own country, may serve as the Commander-in-Chief. His deputies are the Ministers of Defense or other military leaders of the countries participating in the Warsaw Pact. They are assigned command of the Armed Forces of each member State of the organization assigned to the Unified Armed Forces.

Headquarters of the Unified Armed Forces has been established under the Commander-in-Chief in Moscow, and consists of permanent representatives of the General Staffs of the member States.

The organization and activity of all organs of the Warsaw Pact are based on strictest observance of the principles of sovereign equality and noninterference in the internal affairs of its members.

The Political Advisory Committee is based on the principle of equal representation. Each State has one vote. A rotating chairmanship by representatives of the member States has been established for conduct of the Committee meetings. Each delegation has the right to use its own national language at the meetings.

The principles of sovereign equality and noninterference have also found full expression in the organization of the Unified Armed Forces of the member States and their executive organs.

Those in command of the national armed forces have equal legal status regardless of the contribution made by one country or another to the Unified Armed Forces. The Defense Ministers of the member States, who are in

command of the national forces assigned to the Unified Armed Forces, are subordinate to the Commander-in-Chief only in this capacity, and are independent in settling all other questions pertaining to the organization of the armed forces of their own country.

The Unified Command has functions and limitations on its jurisdiction, rigidly defined in the Warsaw Treaty. It is in command only of those contingents of the armed forces and equipment assigned to its command by agreement of the members, and which comprise the Unified Armed Forces of the member States. Its jurisdiction does not extend to the armed forces of member States not included in the Unified Armed Forces.

The Warsaw Pact Organization, throughout its existence, has shown itself to be the bulwark of peace in Europe, not just for the Socialist countries. The very existence in Europe of a genuine defense organization of truly peaceloving countries possessing the forces and equipment capable of opposing the forces and equipment of the largest imperialist groups is, under modern conditions, a necessary and decisive factor in guaranteeing peace and security throughout Europe.

4. The Concept of Aggression

The concept of aggression in international law means armed attack by one State on another. Counteractions by a State which has been attacked - armed strikes against an aggressor in self-defense - are not considered aggression, even if such actions are expressed in the form of offensive operations. The use by a State of its armed forces against another State in order to carry out sanctions imposed by the Security Council against an aggressor, as provided under the U. N. Charter, is also not considered aggression.

Contemporary international law prohibits aggression and declares it an international crime. This principle is reinforced in the U. N. Charter, as well as in the charters of the Nuremberg and Tokyo International Military Tribunals, which established that "the unleashing or waging of aggressive war is a crime against peace."

The U. N. Charter obligates members of the Organization to settle their disputes solely by peaceful means

and to refrain, in their international relations, from the threat or use of force against the territorial sanctity or political independence of any country, or any other action not compatible with the objectives of the U. N. A State may use force only when exercising its right to individual or collective self-defense, if an armed attack is launched against a U. N. member (Art. 51), or by decision of the security Council in order to apply sanctions against an aggressor State. The Security Council may decide either to take measures against an aggressor not involving the use of armed force, such as full or partial disruption of economic relations and communications and breaking off of diplomatic relations, or necessary measures involving armed force to maintain or restore international peace and security. These actions could include a demonstration of force, blockade and other operations by armed forces. If sanctions are applied against an aggressor, these armed forces should be placed at the disposal of the Security Council by U. N. members on the basis of special agreements between these members and the Security Council.

International law recognizes the inalienable right of colonial peoples to use armed force against colonizers who forcefully impede liberation of the colonial masses.

Contemporary international law has established the principle of responsibility for aggression. This responsibility is either political, when restrictions are placed on the sovereignty of a State for its aggression (for example, full or partial demilitarization), or material, when the aggressor pays for damage resulting from his own actions, which payment is expressed in payment of reparations or in the obligation to make restitution. Persons guilty of planning, preparing, unleashing or carrying out aggression bear responsibility for their crimes. Such "criminal responsibility" is also borne by persons who have committed a crime against mankind in the course of the aggression.

The responsibility of the Fascist aggressors who unleashed World War II has been defined in such international legal acts as the 1943 declaration on the responsibility of the Nazis for atrocities committed by them, the resolutions of the Crimean and Potsdam Conferences of 1945, etc.

The initiative for developing a definition of aggression belongs to the Soviet Union. As early as 1933 the Soviet delegation to the Disarmament Conference introduced a declaration concerning the definition of an aggressor, according to which the aggressor in an international conflict should be regarded as the first State to commit one of the following acts: declare war against another State; without declaring war, use its own armed forces to invade the territory of another State; use its own land, sea or air forces to bomb the territory of another State or deliberately attack its naval vessels or aircraft; land its armed forces or bring them within the confines of another State without the permission of the government of the latter, or violate the conditions of such permission; or establish a naval blockade of the coasts or ports of another State. The Soviet proposal also indicated that no rationale of a political, strategic or economic nature could serve as a justification for the above acts. The Committee on the Security Question basically approved the Soviet proposal in the form of an instrument for defining an aggressor, which served as a basis for the London Convention to Define Aggression, concluded by the USSR and 11 other States in 1933. The definition of aggression contained in the London Convention achieved wide international recognition in treaties between other States.

On Soviet initiative, the question of defining aggression was discussed at a number of sessions of the General Assembly and in the Special Committee to Define Aggression, which has been in existence since 1953.

In 1953 the Soviet Union introduced before the Special Committee a proposal to define aggression also containing definitions of indirect, economic and ideological aggression. The proposal defines indirect aggression as the support of subversive activity (acts of terrorism, diversions), the encouragement of civil war and internal policy reversal in favor of the aggressor.

The basic provisions of the Soviet proposal concerning the definition of aggression received the support of many States. However, opposition on the part of the United States, Great Britain and some of their allies impedes the U. N. in arriving at a final definition of aggression and thus create an important means of preventing it.

5. The Aggressive Blocs of the Imperialist States. Military Bases on Foreign Territory

After World War II, the U. S. and other imperialist countries established as the basis of their relations with other countries a policy of force, expressed in the formation of aggressive military blocs against peace-loving States and the establishment of numerous military bases on foreign territories.

NATO. The North Atlantic Treaty Organization (NATO) established on the basis of the North Atlantic Treaty of 4 April 1949, is the largest military bloc of the imperialist States, where aggressive tendencies are aimed primarily at the Socialist countries. At the present time, 15 countries are members of this military-political bloc: the United States, Great Britain, France,[2] Italy, Belgium, The Netherlands, Luxemburg, Canada, Portugal, Norway, Denmark, Iceland, Greece, Turkey and the Federal Republic of Germany.

2. France announced her withdrawal from NATO in 1966.

The North Atlantic Treaty provides for the use of armed force by all members of the bloc if one of these countries is "subjected to attack." However, no references to the "defensive" character of the treaty can conceal its essentially aggressive nature. It is sufficient merely to cite two circumstances: the refusal to allow the USSR and other Socialist countries to participate in this organization, and conferral on NATO members of the "right" to suppress "aggression" without authority of the Security Council. This is in direct violation of Art. 53 of the U. N. Charter.

The aggressive nature of the North Atlantic Treaty is also manifested in some of its other provisions. Thus Art. 4 speaks of joint actions of members of the bloc "in event of a threat to their political independence or security," which implies direct interference in the internal affairs of the member States. Military and economic cooperation between its members is aimed at strengthening so-called "free institutions," i.e., capitalist regimes, and strengthening their ability to "resist armed attack," i.e., intensifying militarization and the arms race.

The highest political organ of the military bloc is the NATO Council, which is convened twice a year, and which includes the Ministers of Foreign Affairs, Defense, Finance, and, in some cases, the Prime Ministers of the member States. The Permanent Council, consisting of representatives of these countries, with the rank of Ambassador, governs activities of the bloc between sessions. In addition, NATO has a large administrative apparatus headed by a Secretary General. The supreme military organ of NATO is the Military Committee, consisting of the Chiefs-of-Staff of the member States. Military strategy and military planning are administered by the permanent group of the Military Committee to which are subordinated commands for Europe, the Atlantic Ocean and the English Channel. There are also commands for smaller areas, as well as various coordinating committees.

Basic NATO decisions are made at Council meetings. Thus at the 1952 session in Lisbon a decision was made to allocate to the NATO Command 50 divisions, 4000 military aircraft and large naval forces by the end of the year. At the 1954 session the decision was made to equip NATO forces with nuclear weapons, with the U. S. exercising control over nuclear warheads. In 1957, a plan was approved to furnish NATO forces in Western Europe with tactical nuclear weapons, and in 1962 the U. S. announced its decision to transfer to the NATO command five American submarines carrying POLARIS missiles. In December 1962 the U. S. proposed a plan to establish, within NATO, naval missile forces "under multilateral control and multilateral ownership," which at first would consist of 20 POLARIS-carrying destroyers manned by naval personnel of the various NATO member States. The Federal Republic of Germany was particularly receptive to this plan and offered to assume more than one-third of the expense involved in creating it. In 1963, the NATO session decided to establish unified nuclear forces in the Mediterranean Sea, including American submarines with nuclear missiles and British bombers. Implementation of the plan to develop a multilateral nuclear force in NATO has been postponed, since a number of countries, particularly Great Britain, are cautious about it, and France has completely refused to support it.

World public opinion opposes granting the German militarists access to nuclear missiles. The Soviet Government, in notes issued on 8 April and 20 May 1963,

declared the inadmissibility of transferring atomic weapons to the Bundeswehr, and proposed that the Mediterranean Sea be declared a nuclear-free zone. Such a warning was also contained in the decisions of the Political Advisory Committee of the Warsaw Treaty in January 1965.

NATO members have at their disposal large military contingents - about seven million men. In the West European NATO States alone there are over 200 air bases. In England, Italy and Turkey installations have been set up for launching American ballistic missiles. A base has been established at Holy Loch in Scotland for American nuclear submarines armed with POLARIS missiles.

In attempting to implement the concept of a multilateral NATO nuclear force, the United States assigned the destroyer CLAUDE RICKETTS, to be manned with a mixed crew consisting of seamen from the United States, Federal Republic of Germany, Italy, Great Britain, Greece and The Netherlands. In February 1965 this destroyer set sail to join the United States 6th Fleet. After leaving Norfolk, it sailed into the Caribbean, where it fired several missiles.

However, the CLAUDE RICKETTS did not sail for long with a mixed crew. This is a testimony to the unpopularity of developing multilateral nuclear forces, even among certain NATO members.

At the very inception of NATO, the Soviet Union observed that this bloc expresses the aggressive efforts of a small group of powers and that its aim was to establish world domination by one or two of its member States.

NATO activity has intensified the danger of a worldwide military conflict. The Soviet Government and the governments of other Socialist countries have repeatedly proposed conclusion of a nonaggression treaty between the two opposing military camps, to establish in Europe a forbidden zone vis-a-vis installation of nuclear and missile weapons, to reduce armed forces, and to conclude a European security treaty. However, these proposals were not accepted by the NATO countries, which is a clear affirmation of the truly aggressive nature of that bloc. Due to the aggressive nature of NATO, in 1966 France openly declared her withdrawal from that organization; consequently, NATO Headquarters was transferred from Paris to Belgium (Brussels).

SEATO. The treaty organization for the "defense" of Southeast Asia (SEATO) was established on the basis of a treaty concluded in Manila on 8 September 1954. Parties to this aggressive bloc are the United States, Great Britain, France, Australia, New Zealand, Thailand, Pakistan and the Philippines.

Basically the Manila Treaty, which is of an indefinite duration, provides for undertaking joint military action, even when the "threat" to one Party to the Treaty is expressed "by any means other than an armed attack, or if it is affected or threatened by any other fact or situation." According to the provisions of the Treaty, it may be extended to any Asiatic country or territory not a party to SEATO. An "anti-Communist clause" is included as an integral part of the Treaty and provides that the United States will consider itself obligated to act in accordance with the provisions of the Manila Treaty only in the presence of "Communist aggression."

The highest organ of SEATO is the Council, convened every year, in which the Ministers of Foreign Affairs of the member States are represented. The permanent bodies of the organization are the Institute of Military Advisors and three committees: a subversive activities committee, an economic affairs committee and a committee on information, culture and labor. SEATO has its Headquarters in Bangkok.

The main forces of SEATO consist of American and British troops in the Far East (for example, the United States 7th Fleet, part of the U. S. Strategic Air Command, based on Okinawa and Guam, the British Far Eastern Fleet based in Singapore, etc.).

The statement by the Ministry of Foreign Affairs of the USSR on 15 October 1954 contained an exhaustive description of SEATO. It emphasises that the Manila Treaty runs counter to the U. N. Charter and is directed "against the security interests of Asia and the Far East and also opposes the freedom and national independence of the peoples of Asia." Experience has completely confirmed this assessment and has demonstrated that the true objective of this aggressive bloc is to protect the interests of the imperialist States, plan military adventures in Asia and attempt to interfere with the independent development of the peoples of Asia. The direct armed aggression of American imperialism against the

people of South Vietnam and the aggressive actions of the United States against the Democratic Republic of Vietnam clearly demonstrate the true face of American imperialism - the creator and inspirer of the aggressive SEATO bloc.

CENTO. The third aggressive military bloc created by the imperialist States is CENTO, or Central Treaty Organization. (From 1955 to 1959 it was known as the Baghdad Pact Organization). As early as 1951 the United States and Great Britain had proposed the creation of a "Middle East Command," a military alliance of Arab countries and Israel with the Western Powers and Turkey, but the Arab countries decisively rejected such a plan. Then the imperialist circles began to establish a more exclusive military bloc. For all practical purposes, CENTO was established in 1955. It included Great Britain, Iraq, Turkey, Pakistan and Iran. CENTO was formed by concluding a treaty in Baghdad between Iraq and Turkey on 24 February 1955, and a treaty between Iraq and Great Britain on 4 April 1955. Pakistan acceded to this treaty on 23 September 1955 and Iran on 3 November 1955. Although the United States is not formally a member of CENTO, it takes a most active part in it as an "observer" at all meetings of the CENTO Council. Moreover, by signing the Ankara military agreements in 1959 with Iran, Turkey and Pakistan, the United States is a de jure member of this bloc and plays a leading role in it.

The executive organs of the bloc are the Permanent Council of Ministers of Foreign Affairs, the Military Planning Headquarters, the Military Committee, and the Permanent Military Group (the latter are even formally under American command). In addition, there are permanent commissions: one to counteract "subversive activities," a Military and Economic Committee and a Secretariat. The main organs of CENTO are headquartered in Ankara.

In reality, CENTO is the Middle East affiliate of NATO. The basic objectives of CENTO are the struggle against countries fighting for their independence, protection of the interests of capitalist monopolies, particularly the petroleum interests in the Near and Middle East, and establishment on the territory of the countries of this area of a military staging area and bases to prepare for war against the Socialist countries.

The only Arab country participating in this bloc, which as conceived by its founders was to include all Arab countries, was Iraq, but in 1959 it officially withdrew from this aggressive bloc.

In June 1966, a new aggressive bloc was established in Seoul - the so-called "Asian-Pacific Council" (ASPAC), consisting of Australia, Malaysia, New Zealand, South Vietnam, South Korea, Thailand, Chiang Kai-shek's China, the Philippines and Japan.

The United States is attempting to utilize the Organization of American States for its aggressive purposes. An example of this is the illegal interference of the OAS in the affairs of the Dominican Republic.

Military bases of the imperialist countries on foreign territory. These bases represent a great threat to the cause of peace. The American imperialists are striving, through the use of military bases on foreign soil, to subjugate entire countries and continents and eventually the entire world, and the justification for these bases is the so-called Communist threat and the presumed special United States responsibility for "world leadership."

Innumerable American military bases (about 1400 in all, of which 200 are primary) located at distances of hundreds and thousands of kilometers from her borders are directed against the USSR and the Socialist countries, which demonstrates their purely aggressive intent. American military bases threaten not only the countries of Socialism, but also capitalist and developing countries, especially those countries where her bases are located.

The utilization, by the imperialist States, of their military bases on foreign territories for aggressive and neocolonialist purposes in Korea, during the Suez adventure in 1956, in the Near and Middle East, in the Congo and in South Vietnam and against the Democratic Republic of Vietnam has incited the people into a struggle against foreign military installations, especially nuclear missile bases, and to completely remove them from foreign territories.

The USSR and other Socialist countries, as well as many developing countries, are waging a continuous struggle for liquidation of the United States military bases on foreign territories and the removal of American forces from them.

CHAPTER II

INTERNATIONAL LEGAL STATUTES APPLICABLE TO WAR AT SEA

1. Outbreak of War and its Legal Consequences

A state of war is the totality of legal relationships which give rise to an armed conflict. The transition of States from peace to war radically alters the relations between the belligerents, as well as between the belligerents and neutrals. The outbreak of war gives rise to certain legal consequences, both for the participants and for States not participating in the war.

Under contemporary international law there are various legal consequences for a State, or for a group of States, unleashing aggressive war, as well as for a State, or group of States, exposed to armed attack.

The aggressor unleashing the war bears political and material responsibility for the preparation and unleashing of aggressive war. Responsibility for violating the laws and customs of war, as in the case of Germany and Japan in World War II, can be added to these forms of responsibility of a State for aggression.

The legal consequence of armed aggression for States exposed to armed attack is the exercise of their right to individual or collective self-defense, provided for in Art. 51 of the Charter of the United Nations. The right to individual or collective self-defense is the right to take retaliatory military action against the aggressor and the right to use armed force to repel armed aggression in order to protect one's sovereignty and territorial integrity.

The most usual consequence of the outbreak of war is the breaking off of diplomatic and consular relations, economic, cultural and other formal ties between the belligerents.

Treaties and conventions concluded specifically in event of war come into force, i.e., become effective, with the outbreak of war.

Treaties of friendship, alliance and mutual assistance providing for collective defense against an aggressor come into force, as do the provisions of conventions on the laws and customs of war and conventions on the protection of cultural values, in event of armed conflict. Moreover, the provisions of conventions regulating military and merchant shipping of the belligerents and neutrals on the high seas and through inter-

national straits and canals become effective. Provisions with respect to submarine operations against merchant shipping, rules governing establishment of a naval blockade, conversion of merchant ships into warships and provisions determining the status of hospital ships, military medical transports, etc., also come into force.

The waters of the belligerents and the waters of the high seas become a theater of military operations with the outbreak of war. Under the 1949 Geneva Conventions, States participating in war are obliged "to observe, and to compel observance of, under all circumstances," the laws and customs of war.

One of the legal consequences of the outbreak of military operations at sea is the so-called right of seizure and confiscation of merchant ships belonging to the other belligerent, and the right of the belligerents to detain, search and requisition neutral vessels.

2. Theater of Combat Operations at Sea

The theater of combat operations at sea encompasses the coastal waters of the belligerents, the waters of the high seas and the air space above them, within which the armed forces of the belligerents have the right to use weapons and conduct other types of operations against their enemies.

International law prohibits conversion of the territorial and inland waters, as well as the air space, of neutral countries into a theater of military operations. Equally prohibited is the conduct of military operations in the territorial waters of neutralized and demilitarized territories and archipelagoes, or their use for military purposes (see Part I, Chapter II). For example, use of the territorial waters of Spitzbergen and the Åland Islands, neutralized under international treaties, by the navy of Fascist Germany was a flagrant violation of the rules of international law.

Great Britain, France and Israel flagrantly violated the International Convention of 1888, as well as the rules of contemporary international law, when they converted the neutralized Suez Canal Zone into a theater of military operations during their aggression against the Egyptian Republic in 1956.

The practice of past world wars is testimony to the fact that a theater of military operations at sea can be broken down into zones with a special regime for combat operations of forces assigned to an operation, and zones with a corresponding regime of navigation for belligerent and neutral countries. Combat zones have been designated as "defensive," "closed to shipping," "zones of unlimited submarine warfare," "patrol zones," etc. The United States, in World War II, established "special submarine zones" in the Pacific Ocean and "patrol zones" in the Atlantic Ocean.

Even in World War I, Germany declared all the waters washing England, Ireland and Scotland a "combat zone" (4 February 1915). In this zone, both hostile and neutral vessels could be sunk without any guarantee of the lives and safety of crews and passengers.

In 1917 this zone around England was expanded. Its boundary passed through 30° W. and from 47° 00' N. to 57° 00' N. A "prohibited zone" was established in the middle of the Atlantic Ocean on the lanes from America to Europe and along the west coast of Africa. All of the North Sea and practically all of the Mediterranean Sea was declared a "danger zone."

On 21 October 1914 Great Britain declared the entire North Sea a "theater of military operations" within which merchant, fishing and other types of ships were exposed to "extraordinary danger from mines."

In 1918 the United States established a "prohibited zone" extending for hundreds of miles into the Atlantic Ocean.

In April 1941 the United States expanded its "patrol zone" to a line encompassing all of the waters of the North Atlantic west of 26° W.

The United States illegally established a so-called defense zone around the Korean peninsula during the aggressive war in Korea. The Soviet Government regarded this as a new act of aggression, responsibility for the consequences of which must be assumed by the Government of the United States.

The zones in the eastern Mediterranean and in the northern part of the Red Sea, declared "closed to merchant shipping" by the British and French naval command during the period of aggression against Egypt in 1956, were clearly of an illegal nature as well. The Government of the USSR lodged a vigorous protest against these unjustified actions, which impeded navigation in the Mediterranean and Red Seas.

In flagrant violation of universally recognized rules of international law, the Charter of the United Nations and the Geneva Agreements of 1954, the United States has unleashed an aggressive war against Vietnam and in the process has illegally declared the adjacent waters for a distance of 100 miles from the coast of this country "an area in which the Armed Forces of the United States are engaged in combat operations."

Under present conditions, nuclear-free zones are acquiring great importance. On 20 May 1963 the Soviet Union once again proposed to the Western Powers that the entire Mediterranean area be declared a nuclear-free zone, and announced its readiness to assume the obligation not to deploy nuclear weapons or the means for their delivery in the waters of this sea if the same obligations are assumed by other powers. The USSR is ready to offer firm guarantees that the Mediterranean area will be considered outside the sphere of nuclear warfare in event of any type of military complications.

Nuclear-free zones could also be distributed throughout the Baltic and Black Seas, as well as other areas of the World Ocean.

3. Prohibited Implements of War

In accordance with Art. 23 of the Statute on the Laws and Customs of War on Land, appended to Convention IV of the 1907 Hague Conference, belligerents do not have an unlimited right to select the means and methods of waging war. In addition to limitations established under special agreements, the following are prohibited: to employ poison or poisoned arms, to treacherously kill or wound individuals belonging to the civilian population or army of the hostile nation, to employ arms, projectiles or agents capable of causing unnecessary suffering, to make improper

use of a flag of truce, the national flag or military insignia and uniform of the enemy, or identifying insignia established by the Geneva Conventions on rendering assistance to the wounded, sick or those lost at sea. Enemy property must not be destroyed or seized, unless such destruction or seizure is urgently demanded by the necessities of war, there is a prohibition against declaring that no quarter will be given, etc. A belligerent may not compel citizens of the hostile party to participate in military operations against their own country, even if they were in the belligerent's service before the outbreak of war.

In addition to those listed above, there are restrictions imposed by a number of other international legal agreements.

Thus the Petersburg Declaration of 1868 prohibits the use of explosive and incendiary bullets, as well as similar projectiles weighing less than 400 grams. Despite the fact that this provision has become obsolete to a certain degree as a result of the development of military technology, the Petersburg Declaration has not lost its significance, even today, since it stems from the need to prohibit the use of explosive bullets aimed directly against the living resources of the belligerents, i.e., against the people.

With this in mind, the Third Hague Declaration of 1899 prohibited the use of bullets which "turn or flatten readily in the human body," thus supplementing and defining more precisely the essence of the prohibition established in the Petersburg Declaration of 1868.

It is quite apparent that combat against military aircraft of the enemy and mechanized ground equipment requires the use of armor-piercing, explosive and incendiary bullets, small and large caliber small arms, and small caliber explosive artillery shells. But the use of such bullets and projectiles against the human resources of the enemy is unnecessary and is a violation of international law.

In addition to the appendix to the Fourth Hague Convention of 1907, there are special international legal agreements which establish a broader prohibition against the use of all other chemical war agents. Thus the Second

Hague Declaration of 1899 prohibited "the use of projectiles, the sole purpose of which is to spread suffocating or noxious gases." The 1925 Geneva Protocol prohibits the use in war of asphyxiating, poisonous or other similar gases and bacteriological agents. The Protocol is thus the most general and universal rule of international law prohibiting all types and forms of chemical and bacteriological warfare, and is therefore of particular importance.

In adhering to the Geneva Protocol, the USSR made the two following substantial reservations:

1) that the named Protocol bind the Government of the USSR only with respect to States which have signed and ratified it, or which have finally adhered to it, and

2) that the named Protocol cease to be binding on the Government of the USSR with respect to any hostile State the armed forces and formal or actual allies of which fail to take into consideration the prohibition which is the subject of this Protocol.

The Geneva Protocol was signed by most of the countries of the world. Nevertheless, some 20 States, including the United States and Japan, are still not parties to the Protocol.

A flagrant violation of the provisions of the Geneva Protocol was committed by Fascist Italy, which used poison gases against the people of Ethiopia during the Italo-Abyssinian War of 1935-1936, and to some extent by Hitlerite Germany on the Soviet-German front. However, Germany, fearing retaliation, did not dare use chemical and bacteriological agents against the USSR on a broad scale. The readiness of the USSR for chemical warfare in the event chemical or bacteriological agents were used by her enemies played a decisive role in averting this danger, as did the warning issued by the Soviet Government in adhering to the Geneva Protocol. The same warning against the inadmissibility of gases and bacteriological agents was given by the other members of the anti-Hitlerite coalition - the United States and Great Britain.

The Soviet Government, in a note of 26 March 1965, vigorously condemned the use of poison gases against the people of South Vietnam and qualified this as the most

flagrant violation of the universally accepted rules of international law, flouting the elementary principles of human morality and humanism.

Prohibition of the use of weapons of mass destruction is now the center of attention for all of mankind, as a result of the development of atomic and hydrogen weapons. As long ago as 1946, at the First Session of the General Assembly of the United Nations, the Soviet Union proposed that atomic weapons be prohibited. On 14 December 1946 the General Assembly passed a Resolution indicating the need for the fastest possible prohibition of the use of atomic energy for military purposes. At all subsequent sessions of the General Assembly the USSR has systematically posed the question of using atomic energy for peaceful purposes only, prohibiting its use for military purposes. However, the imperialist powers have rejected these proposals and are preventing the drafting of a convention on the prohibition of atomic weapons and other weapons of mass destruction.

Certain methods of waging war are also prohibited under international law. Thus the Ninth Convention of the 1907 Hague Conference prohibits belligerent naval forces from bombarding unprotected ports, cities, towns, dwellings or buildings from the sea.

Whenever such ports or inhabited places contain military warehouses or installations, the commander of the naval forces operating offshore from such sites can demand that the local authorities destroy them. Only when such demands are rejected can he subject such sites to bombardment from the sea, at the same time taking necessary steps to restrict damage to an inhabited place.

The Convention prohibits bombardment of inhabited places for nonpayment of indemnities by the inhabitants.

One cannot fail to note that some of the provisions of the Ninth Convention are used by the imperialist powers to justify their arbitrary behavior, as was the case in their formulation permitting bombardment of undefended inhabited places should the inhabitants refuse "to submit to requisitions for provisions or supplies needed by the naval force..."

4. Belligerents at Sea (Combatants and Noncombatants)

Unlike combatants in war on land, combatants (legally belligerents) in naval warfare consist not only of personnel serving in the ranks of the naval forces but also ships meeting certain requirements.

Naval personnel are recognized as combatants or noncombatants using the same criteria applied to land warfare. As far as the recognition of ships as combatants is concerned, the legal significance of such recognition must be taken into consideration.

A ship is recognized as a combatant if: a) it is recognized as a naval unit with the right to conduct military operations (to use weapons) against an enemy, and bears no responsibility if it acts in conformity with international rules governing the conduct of war; b) it is itself the target of an enemy who uses his weapons against it without warning; c) personnel who are members of the crew of such ship and who fall into enemy hands must make use of the protection offered to war victims under the Convention.

Hence it follows that a belligerent ship not enjoying the rights of a combatant is considered a pirate ship if it uses its weapons to attack an enemy ship, and is subject to capture or destruction without restrictions, and its crew bears responsibility in accordance with the 1958 Convention on the High Seas, and if it is seized in the territorial sea of a particular country, it is liable under the laws of the coastal State.

Privateering, i.e., the right of private merchant shipowners to conduct military operations against enemy ships with the approval of their government (letters of marque), was prohibited by the Paris Declaration of 1856.

All warships included in the armed forces of a belligerent, regardless of class and the method used to list them in the navy, are considered combatants in naval warfare. They include (a) all combatant ships, regardless of type and class; (b) auxiliary ships used to provide the navy with armaments, ammunition and provisions, or

used to supply warships at sea; and (c) merchant ships officially converted into warships in accordance with the provisions of the Seventh Hague Convention of 1907.

According to the Regulations Governing the Navy of the USSR, a Soviet warship is defined as any ship flying the naval ensign of the USSR. The naval ensign is the most important distinguishing symbol indicating that a ship belongs to the navy.

5. Conversion of Merchant Ships Into Warships. Arming Merchant Ships

Conversion of merchant ships into warships. The conversion of merchant ships into warships arose as an issue in the second half of the 19th Century, after privateering was prohibited, but was not finally resolved until the Seventh Hague Convention, which takes effect only in wartime.

Under this Convention, converting merchant ships into warships in time of war is considered legal only if the following conditions are observed:

1) the ship must be placed under the direct authority, immediate control and responsibility of the State whose flag it is flying;

2) the converted ship must bear the external distinguishing marks of warships, i.e., it must fly the naval ensign and pennant, and be carried on navy lists;

3) the ship's commanding officer is on active military service;

4) the ship's crew must submit to military discipline;

5) the ship must observe the laws and customs of war.

The Ninth Hague Convention failed to resolve the question of where a merchant ship is to be converted into a warship, or the possibility of reconverting the ship into a merchant ship in time of war. Even at that time,

Great Britain, the United States, Japan and Holland dismissed the position that a merchant ship should be converted into a warship only in domestic ports and waters. These countries were interested in seeing to it that ships of other powers with fewer ports at their disposal should not be permitted to hoist the naval ensign on the high seas. Russia, France, Italy and Germany felt that the conversion of merchant ships into warships is also possible and legal on the high seas.

Nor was agreement on this question reached at the 1909 London Naval Conference.

During World War I (1914-1918), Great Britain, France, and Italy converted a large number of merchant ships into warships and used them to protect their sea communications lines. Germany also converted a considerable number of its merchant ships into warships for dispatch to remote areas of the oceans and seas as Q-ships to prey on British merchant ships, and in many cases this conversion took place on the high seas.

During World War II Great Britain and France also converted a great number of their merchant ships into warships, using them to convoy caravans of merchant ships and to protect their own sea communications. Germany and Italy also made similar conversions.

Arming merchant ships. The legal status of armed merchant ships is an exceptionally complex and involved problem, since there are no universally accepted rules or special convention on this question.

The question of arming merchant ships was raised for the first time in England at the beginning of the 19th Century. The arming of merchant ships was officially recognized by the United States Supreme Court in 1815, but on the condition that such arming should be exclusively for defense and not for attack.

In World War I most British and French merchant ships were armed with guns for protection against German submarines.

The right to arm for self-defense was not challenged openly at the time by any State, except for Germany and Holland. Germany did not recognize the right to arm merchant ships and regarded armed merchant ships as warships.

In a special neutrality declaration on 5 August 1914, Holland prohibited all warships, and all ships equated to them, including merchant ships armed with guns, from calling at Dutch ports.[1]

1. For example, the English steamship MELITA was not admitted to a Dutch port until her armament had been removed.

The other neutrals of that period as a rule decided the question of admitting armed merchant ships to enter their ports in accordance with the position each had taken with respect to each of the belligerents. The U. S. Government, for example, on 19 September 1914, directed authorities in all American ports to make a distinction between merchant ships armed for defense and those armed for attack. Under this directive, ships armed purely for defense were recognized as ordinary merchant ships.

After the First World War a number of attempts were made to resolve the question of arming merchant ships in wartime.

For example, at the 1922 Washington Treaty on arms limitation it was decided (Art. 19) that decks would have to be reinforced in peace time for the installation of guns up to 6" in caliber in case of war. This rule was confirmed in Art. 9 of the London Naval Treaty of 1930, which permitted reinforcement of the decks of merchant ships in peacetime provided that the maximum caliber of guns which could be installed on such ships in case of war does not exceed 6.1" (155 mm). These provisions were not approved by all States, however.[2]

2. On the other hand, the Havana Convention of 20 February 1928, concluded by the American States at the so-called Pan-American Conference, provided that armed merchant ships, with respect to sojourn and supply in neutral ports, must be equated to warships. This provision was nullified by the General Declaration adopted by the American Republics on 3 October 1939 in Panama.

Long before World War II, the large capitalist powers began intensive preparation of their merchant fleets for war. Particularly intensive was the preparation of the British and Japanese merchant fleets.

This preparation involved increasing the speed and unsinkability requirements of merchant ships, installing foundations and reinforcements under weapons and outfitting magazines for ammunition, installation of equipment to lay mines, drop depth charges, etc.

Suffice it to say that as early as the spring of 1939, Great Britain had 2,000 guns of various calibers for installation on merchant ships. Decks were reinforced on over 1,000 ships so that these weapons could be installed.

In 1936, the British Admiralty published a special manual dealing with protection for commercial navigation which envisaged arming the entire British merchant marine in case of war. At the same time, British jurists made a concerted effort to establish the right of merchant ships to arm and yet retain the status of ordinary merchant ships.

The right to arm merchant ships, but only for self-defense, was reflected in the Neutrality Rules adopted by the Scandinavian countries in 1938, in the Dutch neutrality declaration of 1939, and in the General Declaration of the American Republics adopted on 3 October 1939 in Panama.

It is a fact that in World War II all nations armed their merchant ships. At the same time, German submarines sank armed and unarmed merchant ships without warning, and without taking steps to save the crews of merchant ships.

After the war the legal status of armed merchant ships also remained an open question. And the question most in dispute was whether an armed merchant ship, though armed with guns, retains its previous status as an ordinary merchant ship, and whether it enjoys immunity against attack without warning and without taking steps to rescue crew and passengers. Indeed the very presence of guns aboard such a ship makes it virtually impossible for a submarine to give warning of attack, since the submarine could be fired upon or rammed by such a ship. In World War I the British and French used special Q-ships to combat German submarines. The British and French refitted scores of merchant and fishing vessels, including a considerable number of sailing vessels, for this purpose.

These vessels were well armed, were camouflaged as neutral merchant or fishing ships of neutral States, flew neutral flags, and, as a rule, took submarines by surprise as the latter closed in, believing that they were unarmed merchant or fishing vessels. A considerable number of German submarines were sunk in this manner. Thus it is obvious that armed merchant ships present a serious danger to submarines.

The nations of the aggressive NATO bloc have, in recent years, nurtured plans for the creation of multilateral nuclear forces, including special nuclear missile naval forces which would be "multilaterally-owned and under multilateral control." According to information from the foreign press, the formation of a special NATO fleet, consisting of 25 to 30 surface warships, each armed with eight "Polaris" missiles with nuclear warheads and disguised as ordinary cargo ships is already planned for 1967. These ships will be difficult to distinguish from the many thousands of merchant ships similar to them. Plans for the future call for increasing the number of such ships severalfold, so that they can navigate at the approaches to the Soviet Union and the other Socialist countries and, if needed, launch surprise nuclear missile strikes against the vitally important centers of these countries.

The arming of ships in peacetime with "Polaris" missiles, and disguising them as ordinary merchant ships is the most flagrant violation of international law and the Charter of the United Nations. Disguised armed ships such as these must be regarded as pirate ships.

Noting the illegal nature of arming ships and disguising them as merchant ships, the Soviet Government, in a note addressed to the Government of the United States and certain other countries on 8 April 1963, lodged a vigorous protest and drew their attention to the following:

"In event of a conflict...the countries against which the military preparations of the North Atlantic bloc are directed would be forced to keep constantly in focus in the sights of their retaliatory weapons the most heavily traveled sea lanes where, in the guise of peaceful merchant ships warships carrying nuclear missiles would be lurking. Incidentally, according to the Hague Convention,

the arming of a merchant ship, thus converting it into a warship, cannot be done secretly, even in time of war. Yet the NATO commands want to introduce such treacherous tactics, even in peacetime. Thus the ethics of medieval pirates are interwoven with the latest achievements of nuclear missile technology in the plans of the multilateral forces of NATO. If NATO warships, hiding behind the merchant flag, began poking around the seas, this would be practically equivalent to an undeclared state of war."

From this the following conclusions can be drawn with respect to the legal status of armed merchant ships:

1. There is no special convention which would resolve questions relating to the arming of merchant ships and their legal status.

2. Merchant ships can be armed only in time of war, for self-defense.

3. The experience of two world wars has indicated that virtually all belligerent nations have armed their merchant ships in wartime. However, the first to do so were those nations with large merchant fleets, who depended on the import of needed commodities from other countries.

4. The demand that armed merchant ships be recognized as having the status of ordinary (unarmed) merchant ships and, consequently, be immune from attack by submarines without warning, has not been confirmed by international law.

5. The arming of special warships with "Polaris" missiles in peacetime and disguising them as ordinary merchant ships is a flagrant violation of international law and the Charter of the United Nations, is typical of treachery in relations between States and is virtually equivalent to an undeclared state of war. Since ships of this type are designed for attack, when they appear in the waters of the high seas, they should, under international law, be regarded as extremely dangerous pirate ships, with all the resulting consequences.

6. Naval Blockade

Concept of a naval blockade. In contemporary international law a naval blockade is defined as a system of forcible actions by the navy of a belligerent State (or group of States). The purpose of a blockade is to discontinue use by the enemy of his ports, naval bases, coastline and contiguous waters for maritime trade and all other communications with other States, or to discontinue the use of such ports, naval bases, etc. that he may be occupying.

A naval blockade is strictly an act of war. Naval blockades and navigation by neutral countries in time of war are regulated under the rules established by the Paris (1856) and London (1909) Declarations, under the general principles of international law and the provisions of the United Nations Charter.

The legality of a naval blockade. From the standpoint of international law, the legality or illegality of a naval blockade depends on the legality or illegality of the actions taken by the navy of the blockading State, and on the degree of that State's political and material responsibility for such actions.

Western jurists usually reduce the legality of a naval blockade to the establishment and assessment of certain legal formalities related to the procedure for declaring and publicizing the blockade establishing the limits of the blockaded coasts, assuring the required effectiveness of the blockade, etc. They regard, as the sole criterion for the legality of a blockade, the effectiveness of such action, i.e., the ability of the assigned fleet units to block the route to the objects of the blockade.

With the present rapid development and possible utilization of surface ships and submarines equipped with nuclear power plants, jet aircraft, missiles, mines and torpedoes with nuclear charges, the criterion of effectiveness cannot be the legal grounds for determining the legality of a blockade or other combat operations at sea.

The State which is the first to establish a naval blockade of the ports or coastline of another State is

recognized as the aggresser under contemporary international law. The primary, and decisive, criterion of the legality of a blockade is the character of the war (for example, aggressive war - illegal blockade).

A naval blockade can be recognized as justified only if it is based on the right of a State to individual or collective self-defense (Art. 51, United Nations Charter), or is undertaken to "maintain or restore international peace and security." (Art. 42, United Nations Charter).

A naval blockade carried out in violation of the United Nations Charter must be classified as armed aggression.

A so-called pacific blockade, i.e., one of the forms of aggression of the imperialist States against other countries, is also considered aggression under contemporary international law. Pacific blockades violate Art. 41 of the United Nations Charter. The use of force by one State against another - whether in the form of a naval blockade or on the pretext of reprisals - is a violation of international law.

Reprisals, which constitute a threat to use armed force, or the use of armed force, in relations between individual States, are illegal under the United Nations Charter.

A naval blockade, as a means and method of imposing political, economic, military and other conditions is incompatible with the principles of respect for sovereignty, territorial integrity, nonaggression and noninterference in the internal affairs of other States, and is armed aggression, with all the resulting consequences.

A naval blockade, in the hands of the imperialist States, serves as a means of interference in the internal affairs of other countries, as a form of dictation, and a weapon to suppress national liberation movements.

The barbarous blockade system was, in the words of V. I. Lenin, "the main, indeed the strong, weapon in the hands of imperialists throughout the world for the strangulation of Soviet Russia."3

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3. V. I. Lenin. "Complete Works," Vol. 40, P. 88.

In October 1962 the United States Navy was ordered to intercept all ships headed for Cuba, to inspect them and to prevent passage of ships with "offensive" weapons as determined by American authorities.

The United States attempted to justify these unprecedented aggressive acts on the grounds that Cuba presented a threat to the national security of the United States.

All of progressive mankind construed these piratical activities of the United States as an act of aggression, as the beginning of military operations against the Republic of Cuba, as a gross violation of the rules of international law and of the principles of the United Nations Charter, as an attempt to push the world toward thermonuclear war.

The blockade of Cuba - the "sea quarantine" - was only a small part of a large number of military measures anticipating an armed invasion of Cuba.

In addition to the 67 warships conducting the "sea quarantine," a 100,000-man contingent of ground troops was readied for the invasion of Cuba. Task Group 136, under Vice Admiral A. Ward, Commander of the U. S. 2nd Fleet, was assigned to the blockade, to make strikes against Cuba from the sea, and to support amphibious landings and air drops.

The dangerous crisis in the Caribbean Sea was resolved only because of the firm and sensible position of the Soviet Union. The United States was compelled to lift the illegal blockade of Cuba (22 November 1962) and assumed the obligation not to invade Cuba, either with its own forces or with the help of other nations of the Western Hemisphere.

In conducting an aggressive war in Vietnam, the United States has organized a so-called patrol by warships of the U. S. 7th Fleet in the South China Sea, but this in fact represents the establishment of an illegal naval blockade of the Vietnamese coast.

In accordance with the provisions of the London Declaration of 1909, when a naval blockade is declared the following must be indicated:

1) the date when the blockade begins;
2) the geographical limits of the blockaded coast;
3) the deadline for departure of neutral vessels from the blockaded ports.

The declaration of a naval blockade must be communicated to neutral States through diplomatic channels.

A naval blockade can be declared only in time of war between States. Parties to a civil war have no right to conduct a blockade beyond their territorial sea.

Zone of blockade operations. A zone of blockade operations is defined as a part of a theater of military operations at sea in which the blockading forces conduct a combat mission, the purpose of which is to sever all, particularly commercial, ties between the blockaded State and the outside world.

With respect to the spatial boundaries and limits of a blockade zone, treaties and laws provide for various interpretations.

Russian declaration of 1780 on armed naval neutrality and the Russo-Danish Convention of 1780 required that blockading forces be "in proximity" to the blockaded ports.

Subsequently the spatial boundaries and limits of the zone of blockade operations on the high seas was determined at the discretion of the belligerents.

Participants at the London Conference of 1908-1909 (Great Britain, the United States, France, Russia, Germany, etc.) having adopted the Declaration, did not wish to specify the limits of the zone of blockade operations "in fixed and invariable figures." According to the Declaration, the operational area of the blockading forces must remain "always limited," "can extend for quite a distance," but cannot encompass all of the areas of individual seas where merchant ships navigate. The blockading state need only fix the geographic "limits of the blockaded coast."

The laws of individual States resolve this question in the following manner. The French Instructions of 1934 direct naval forces to seize ships in "the operational zone of the blockading forces." The Italian Naval Regulations of 1938 also contain a general reference to "an

operational zone of the blockading naval forces." German Prize Regulations of 1939 directed the seizure of a ship "only within the limits of the blockade area, or, if it is being pursued, commencing within these limits."[4]

4. Higgins and Colombos. "International Maritime Law." Moscow, 1953, P. 607.

Instructions of the U. S. Navy (1917) call for the capture of ships proceeding to blockaded ports from the time they enter the high seas from the territorial waters of a neutral country until the moment they call at a port of the blockaded State.[5] Thus the zone of blockade operations is thought to embrace the entire expanse of seas and oceans.

5. C. Hyde. "International Law." Vol. 6, pp.154-155.

During the world wars the belligerents avoided declaring blockade zones, but did conduct blockades in war zones under a different name. The United States declared the entire Korean coast blockaded during the aggressive war in Korea. However, a so-called defense zone was established in its place.

A zone "closed to merchant shipping" was also established during the Anglo-Franco-Israeli aggression against Egypt (1956) in the eastern Mediterranean and the northern part of the Red Sea, in place of a zone of blockade operations.

The zone of piratical activities by United States naval forces during the Cuban blockade (22 October - 22 November 1962) was called an "intercept area" and included vast expanses of the Caribbean Sea and the Atlantic Ocean.

The 100-mile zone of illegal blockade operations by the U. S. 7th Fleet, which is conducting an aggressive war against the Vietnamese people, has been designated "an area in which the Armed Forces of the United States are engaged in military operations."

Sanctions (penalties) for blockade running. The sanctions for blockade running or an attempt to run a blockade are basically of two types: capture and confiscation of the ship and its cargo or destruction of a ship of a State attempting to run a blockade.

Treaty practice envisages only one such form - "capture and condemnation" of the blockade runner as a prize ship.

However, the laws of some States, as well as military practice, recognize another type of sanction: destruction of blockade runners. Thus during the illegal blockade of the Black Sea straits and of Soviet ports on the Black Sea (1922), British naval vessels were ordered "to open fire on all ships violating the decree (of the Government of Great Britain - L. I. [author's initials]) on suspension of ship movement."

7. Contraband of War

Contraband of war includes articles which neutral owners, despite a ban imposed by a belligerent, attempt to deliver to the enemy of said belligerent.

Contraband can consist of articles belonging to neutrals, delivered to an enemy in his own or in neutral ships, as well as articles belonging to the enemy but delivered in a neutral vessel.

The principles formulated by Russia and reaffirmed in the Paris Declaration of 1856 that "the neutral flag protects an enemy cargo, with the exception of contraband of war," and that "a neutral cargo, with the exception of contraband of war, is inviolable in an enemy vessel," have been in force for over 150 years in international law. This means that neutral countries, in the event of war at sea, have the unrestricted right to trade with the belligerents, to charter their ships to transport their own cargoes, and to engage in the transport of legal cargoes belonging to shipowners of the belligerent powers.

According to the London Declaration of 1909, all articles transported by sea are classified as contraband and noncontraband. Contraband can be absolute and con-

ditional. Articles directly intended for military purposes must be considered absolute contraband. This includes all types of armaments, ammunition, military equipment, military vehicles and other military supplies, as well as tools and instruments for the production or repair of armaments or equipment. Conditional contraband is defined as those articles which can serve equally well for military or peaceful purposes. Articles of absolute contraband are subject to seizure or destruction by a belligerent in any case, if the ship was bound for an enemy port, regardless of to whom addressed, and also regardless of how the cargo is shipped there - directly or by transshipment at some intermediate point (the principle of continuous voyage or final destination of the cargo). Articles of conditional contraband can be seized or destroyed only if they are destined for the armed forces, or for the military control, of an enemy State. The Declaration of London does not extend the principle of final destination to articles of conditional contraband. A conditional-contraband cargo is not subject to seizure if the ship stops at some neutral port en route, one at which it should have called prior to heading for enemy shores.

An enemy ship can be seized and, if necessary, sunk, provided that steps are taken to save the crew, passengers and ship's papers. Noncontraband cargo of neutral owners found in an enemy vessel is not subject to seizure. Consequently, if such cargo is destroyed along with the enemy ship, the owner of such cargo is entitled to appropriate compensation. A neutral ship and the noncontraband cargo it is transporting are not subject to seizure. Only the contraband cargo aboard can be seized or jettisoned. However, a neutral ship can be seized and confiscated by a belligerent if contraband cargo found on it constitutes more than half of the entire cargo by weight, volume, cost or freight value. In exceptional cases, when removal of a seized ship (prize) to one's own port places one's own ship in danger or endangers the success of a military operation, it can be destroyed. The cost of an unjustly sunk ship and cargo may be compensated for in accordance with a Prize Court decision.

A neutral vessel rendering a service to a belligerent by carrying troops or delivering military information is equated to a vessel carrying contraband of war. A vessel engaging in combat operations, or under the

control of an agent authorized by the belligerent, or wholly chartered by him, is considered an enemy vessel.

The London Declaration was not ratified and did not come into force. Nevertheless, since this Declaration summarized naval customs established up to that time, it was taken into consideration in the resolution of questions related to prize proceedings. However, the rules pertaining to contraband at sea written into the Declaration were subjected to complete review by the belligerents.

Thus, at the outbreak of World War I, the Entente Powers declared that they would conform to the 1909 Declaration, but as far as contraband of war was concerned would be guided by their own lists. In this connection, Great Britain published 14 decrees which considerably expanded the lists of absolute and conditional contraband, and on 7 July 1916 announced her repudiation of the 1909 London Declaration. Russia and France also considerably expanded their contraband lists. France, like Britain, subjected all cargoes bound for Germany to seizure throughout the voyage of the vessel transporting such cargo, then completely repudiated the differences between absolute and conditional contraband. The German Government, in a decree of 18 April 1915, authorized its warships to seize neutral ships carrying contraband, not only throughout their entire voyage, but to pursue them throughout the war.

During World War II, Germany initially declared its position with respect to prizes of war to be that contained in the Declaration of 1909, but later completely violated that position. On 12 September 1939, Great Britain published lists of absolute and conditional contraband which made it completely impossible for neutral countries to conduct maritime trade. In its reply to the British note of 6 and 11 September 1939 on contraband, the Soviet Government noted that the British Government had, in essence, declared basic consumer goods contraband, and had created the possibility that complete arbitrariness would be exercised in declaring all articles of consumer goods contraband of war. The Government of the USSR declared its disagreement with the British note and reserved to itself the right to demand compensation for possible losses inflicted on

the USSR.[6]

6. "Foreign Policy of the USSR. A Collection of Documents." Publishing House of the Military Political School, Vol. IV, Moscow, 1946, P. 459.

The bitter war at sea between Hitlerite Germany and her Western enemies took the form of systematic violation of the rules of international law, resulting in the sinking of a large number of ships of neutral nations and the loss of their noncontraband cargoes.

8. Prizes. Trophies

A prize is a merchant ship or cargo belonging to a neutral owner, or to the enemy, legally seized by a belligerent during war at sea.

In principle, according to custom it is considered necessary that the legality of seizure be confirmed by Prize Courts, specially established by the belligerents in time of war. In practice, the need for prize proceedings arises only when the owners of the captured property themselves present claims, such claimants usually being neutrals. The Prize Court decides in favor of the belligerent in case of confiscation of a neutral vessel or cargo if the capture was legal, or affirms the legality of destruction if they were sunk out of military necessity. If the vessel and cargo were seized illegally, they must be returned. Perishable cargo can be requisitioned. Compensation must be made for unjustified destruction of the property of neutral owners.

These courts, moreover, also consider questions related to enemy property captured on a neutral vessel, but not consisting of contraband of war, as well as questions which arise between the owners of the vessel and cargo with respect to charter, owners' claims for losses suffered as a result of lay up of the captured prizes, salvage costs, etc.

In arriving at a decision, the Prize Court is guided by the rules of international law, taking into account the circumstances under which the prize was captured or

destroyed, as well as the ship's papers presented by the interested parties.

Trophies, in the narrow sense of the word, are captured enemy military equipment and the means of waging war. In naval warfare, consequently, this includes warships, together with all of their armaments and equipment. In the broad sense, trophies also include valuables, captured aboard merchant ships or in amphibious operations, belonging to the enemy, such as money, state funds (gold, jewels), valuable state papers, etc.

Conversion to its own use by a belligerent of trophies captured in time of war does not have to be registered under international law. This registration does not occur until a peace treaty is concluded, and only with respect to property turned over after capitulation.

9. Mine Warfare

Mines are one of the most widely used weapons for combating an enemy at sea.

Even in the Russo-Japanese War of 1904-1905, the belligerents used mines against both warships and merchant vessels.

At the Second Hague Conference in 1907, the Eighth Convention on the laying of automatic submarine contact mines was adopted for a period of 7 years.[7]

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7. Russia, Sweden and Spain did not sign the Convention. Several of the States whose representatives signed the Convention did not ratify it (Bulgaria, Greece and certain Latin American countries).

Great Britain, France, Turkey and Germany signed and ratified the Convention, with certain reservations.

The Convention prohibited:

a) the laying of unanchored automatic contact mines, except those constructed in such a way as to become harmless one hour at most after the person who laid them ceases to control them;

b) the laying of anchored automatic contact mines which do not become harmless as soon as they have broken loose from their moorings;

c) the use of torpedoes which do not become harmless when they have missed their mark;

d) the laying of automatic contact mines off the coast and ports of the enemy with the sole purpose of interrupting merchant shipping.

The Convention did not prohibit neutral States from laying mines along their own coasts, but they were required to inform other States of the laying of such mines.

Several hundred thousand mines were laid in various areas during World War I. Large minefields were created. Since the Convention did not provide for spatial limitations on minelaying in maritime theaters, Great Britain considered herself free to lay minefields in the North Sea from the Hebrides to the coast of Norway. Warships of the German Fleet laid mines off the coast of Great Britain, near the southern tip of Africa, at the approaches to the Suez Canal, off the coast of Ceylon, etc.

Thus, the States which signed the 8th Hague Convention were the first to violate it. New types of mines were used in World War II. Noncontact, multipulse magnetic ground mines, with great destructive force and which are much more difficult to sweep, made their appearance.

Minelaying from aircraft, a procedure making it possible to expand the range of mine warfare far beyond that of World War I, was widely used. The belligerents also used floating mines.

Since the belligerent States used mines on a broad scale, not only for defense of their own coasts and bases but also in enemy waters and along the most important of the enemy's lines of communications, many areas of the high seas were mined,[8] and considerable effort was required to sweep them.

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8. According to incomplete data, approximately one million mines were laid during World War II.

Neutral States also laid many mines off their own coasts. Thus, for example, Sweden set about mining its territorial waters as early as December 1939, Holland laid a mine barrier in the area between the islands belonging to it and its own coast in September 1939, etc.

An International Organization to Sweep Mines in European Waters was founded in 1945 after the defeat of Hitlerite Germany. Its purpose was to control and coordinate activities and exchange information on minesweeping in European waters.

European waters which had to be swept were divided into four zones:

1) an eastern Atlantic zone;
2) a Mediterranean zone;
3) a zone comprising the Barents, Baltic and Black Seas;
4) a zone comprising the Kattegat, the Baltic straits and the approaches to them.

These zones were then divided up into regions and subregions, which were swept by the interested powers, under the supervision of zonal minesweeping boards.

All issues related to minesweeping were consolidated and monitored by a Central International Minesweeping Board, composed of representatives of the USSR, Great Britain, the United States and France.

The Board's functions included compiling an overall minesweeping schedule for European waters, establishing precise boundaries for minesweeping zones, establishing zonal boards and supervising them, establishing a central information bureau for minesweeping, distributing minesweepers between zones, publishing reports on minesweeping experience, determining an acceptable minesweeping level which would ensure safety of navigation, etc.

Zonal boards were established in each minesweeping zone. The Soviet Union was a member of all four zonal boards. The zonal board for the Barents, Baltic and Black Seas was established under the direction of a Soviet naval officer.

In 1946 the International Routing and Reporting Authority (IRRA) was established under the Central

International Minesweeping Board. The USSR was a participant in this organization. Its primary function was the publication of press notices concerning changes in the mine situation, on areas swept & open to navigation, changes in navigation obstructions in swept channels, etc.

"Instructions For Navigating the Coastal Waterways of Northern Europe and the Mediterranean Sea," ("Nemedri") and "Navigational Notices to Mariners " ("Navim"), transmitted by radio for subsequent publication in "Notices to Mariners," were published for this purpose.

Since most of the areas dangerous due to mines had been swept by the end of 1951, the members of the International Organization to Sweep Mines in European Waters decided to discontinue the activity of this organization as of 31 December 1951.

However, it was decided that IRRA, established in 1946, would continue to function in order to provide information and to publish "Nemedri" and "Navim." In 1963, by agreement of the participants, IRRA was abolished, but the British Admiralty agreed to publish "Nemedri" and "Navim."

10. Submarine Operations in Time of War

Contemporary international law regulates the operations of submarines only with respect to merchant and other nonmilitary ships.

Military operations of submarines against merchant shipping in time of war are regulated under the rules of the London Protocol of 1936, the provisions of the Nyon Agreement of 1937,[9] and the decisions of the Nuremberg Military Tribunal of 1946, based on the Charter.[10]

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9. The Nyon Agreement of 1937 was signed by Great Britain, France, the USSR, Bulgaria, Greece, Egypt, Rumania, Turkey and Yugoslavia.

10. The Charter of the International Military Tribunal was signed in the interests of all the United Nations by the USSR, Great Britain, France and the United States. For the text of the Charter, see "Collection of Effective Treaties, Agreements and Conventions Concluded

by the USSR With Foreign Governments." Moscow, State Publishing House for Political Literature, 1955, Vol. XI, No. 472.

The London Protocol, signed by the United States, Great Britain (including the Dominions and India), France Italy, and Japan on 6 November 1936, is Part IV of the London Treaty to limit and reduce naval armaments of 22 April 1930. A number of other countries, including the USSR, Germany, etc., subsequently adhered to the London Protocol.

This Protocol recognized as "established rules of international law" the following rules governing submarine operations with respect to merchant ships in time of war.

In operations against merchant ships, submarines must conform to the rules of international law to which surface vessels are subject. A submarine can sink a merchant ship, or deprive it of its ability to continue to navigate in one way or another, only after it has provided for the safety of passengers, crew and ship's papers.

Here we have the ideal case of a single unarmed merchant ship on the high seas, when a submarine is in absolutely no danger of being sunk by the weapons aboard the merchant ship or by surface warships or air defense forces.

In the event of refusal to stop, or if an effort is made to conceal anything, and also in event of resistance to an inspection or search, the submarine has the right to sink the merchant vessel. A merchant ship can be sunk in event of military necessity. With respect to enemy warships, armed merchant vessels, military transports and merchant vessels making passage at sea in convoys, but excluding hospital ships, submarines have the right to act in accordance with the rules of the naval art.

On the high seas and in enemy coastal waters, including the waters of the countries he occupies, submarines have the right to stop, inspect and search all merchant ships of the enemy and of neutral States, if conditions for this are favorable. Belligerent submarines have the right to confiscate contraband cargo

found aboard a neutral ship, to dispose of enemy property as trophies, to take the crews of merchant ships prisoner and, if possible, to capture merchant ships as prizes.

Submarines may not call, navigate or engage in combat operations in the territorial waters of neutral States. These activities are recognized as a violation of the rules of international law.

Submarines belonging to one of the belligerents in a civil war have no right to conduct combat operations on the high seas or to interfere with merchant shipping of other States.

Attacks in peacetime by submarines, like attacks by surface warships, on merchant and other nonmilitary vessels on the high seas are classified as state piracy, tantamount to an act of aggression under the 1937 Nyon Agreement.

Despite the fact that these were effective rules of international law during World War II, Fascist Germany flagrantly violated them.

On 3 September 1939 the German submarine U-30 sank the steamship ATHENIA, 10,000 tons displacement, bound for the United States. Militarist Japan also violated the London Protocol of 1936. Moreover, a special military mission arrived in Germany from Japan in April 1941 to study the experience acquired by Germany in conducting unlimited submarine warfare.[11]

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11. "Nuremberg Trial," 3d Edition, Vol. 1, pp. 416, 417.

Violations of the rules of the London Protocol by the United States of America and Great Britain are also well known. The British Admiralty issued an order on 8 May 1940 directing all naval vessels, including submarines, to sink all ships appearing in the Skagerrak at night.

United States submarines, by order of the President of the United States, dated 7 December 1941, were directed to conduct combat operations against the Japanese merchant fleet without regard for the rules of international

law.[12] The following statement by the chief prosecutor from Great Britain at the Nuremberg Trial clarifies these very circumstances. "We must not rest our case solely on the violation of universally accepted rules for waging war as formulated in the London Protocols of 1930 and 1936, signed by Germany, and which prohibited sinking without warning, or even with warning, if the necessary measures to save passengers and crew were not taken."[13]

12. Ibid., Vol. 2, P. 1079.
13. Ibid., Vol. 2, P. 535.

Considering the aforementioned orders, the International Military Tribunal found Doenitz innocent of having violated the rules of international law with respect to submarine warfare.[14]

14. Ibid., Vol. 2, P. 1079.

The position of the USSR with respect to submarines was defined in connection with the aggressive acts of British warships in the Black and Baltic Seas (1920), which the British Government ordered to attack Bolshevik submarines encountered "on the high seas," without any warning whatsoever.

In a note of 19 October 1920, the Soviet Government declared that "the RSFSR has the right, as do other sovereign States, to use all means known to military and naval technology for the defense of its borders and shores." The same note stated that "the initiative for the introduction of weapons of submarine warfare into the fleet does not rest with the Workers' and Peasants' Government of Russia. Submarines, like all other weapons of mutual annihilation of peoples, are in integral part of the capitalist social structure.

"Only in the event of an aggressive policy by the capitalist governments will the Russian Soviet Government be forced to use all of the military means at its disposal to protect its independence from external attacks."[15]

15. "Foreign Policy of the USSR. A Collection of Documents." Publishing House of the Military Political School, Vol. I, P. 302.

Under present-day conditions, with the appearance of nuclear submarines armed with missiles, as well as new ASW equipment (sonobuoys, sonar, ASW carriers, etc.), international legal rules now in effect have become quite obsolete.

11. Ruses in Naval Warfare

International laws and customs permit the use of ruses in naval warfare.

The Fourth Hague Convention of 1907 stated: "Ruses of war and the application of measures necessary to obtain information on the enemy and the terrain are recognized as permissible." (Art. 24).

Belligerents use the following ruses in naval warfare:

1) various types of camouflaging of naval vessels;
2) the construction of dummy warships;
3) propagation of false information concerning the movements of one's own forces in order to misinform the enemy;
4) various types of false demonstrations and movements of one's own forces in order to conceal from the enemy one's true intentions;
5) sailing under false flags, etc.

Camouflaging of naval vessels has become extremely important as a means of defending them against an air enemy, against submarines, etc. However, other methods are known in the practice of international law, such as camouflaging naval vessels as merchant ships of neutral countries, with repainting of hulls, changes in name, etc. Thus, for example, in World War I the German ships MOEWE and GREIF ran the blockade, the first disguised as a Swedish, the second as a Norwegian ship.

Dummy warships can also be used as camouflage and to deceive the enemy. In World War I the British Navy had 14 dummy warships which in external appearance resembled dreadnoughts. Their mission was to mislead the enemy with respect to the location of British line forces and to conceal the details of long-distance movements of battleships, if necessary.

Dummy ships were also used to confuse the enemy in World War II. For example, the Germans made a moving dummy out of two old cargo ships which were connected to each other in Brest. This dummy helped them to camouflage their own naval vessels so they would not be seen during air raids.

The dissemination of false information in order to mislead the enemy has been widely used in naval warfare. In 1799, for example, a French ship, having been given a special mission and false dispatches concerning the movement of a French squadron, was intentionally captured and confused the British naval command. As a result, the squadron departed from Brest and delivered miscellaneous supplies to a detachment of the French Army in Italy.

The use of false colors is one permissible ruse in war which is particularly widespread. A neutral flag is ordinarily used, but others have been used.

A warship flying false colors must upon engaging in battle hoist its national colors in accordance with established custom. A belligerent warship must also hoist its national colors in stopping and inspecting ships of neutral States and the enemy encountered at sea.[16]

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16. For example, the French Naval Instructions of 1934 direct a warship to raise its national colors before it signals another ship to stop for visit and search.

The use of false colors violates not the law of the enemy State but the law of the State whose flag is being flown. This has caused diplomatic disputes between neutral States which regard the use of their flags as a "misuse of false colors," as well as between belligerents. For example, during the 1914-1918 war, the British Government, in order to protect its merchant ships from German submarines, on 31 January 1915 directed all of its merchant ships to hoist neutral flags at sea and to destroy all markings which could be used to determine the nationality of these ships. In response to the declaration by Germany that neutral ships might consequently be sunk, the Government of the United States sent Great Britain a note of protest, with the demand that the American flag not be used.

Perfidy, i.e., deceptive activities used by an enemy in time of war but prohibited under international agreements and customs, must be distinguished from ruses of war.

International law considers it perfidy to engage in battle under false colors, to assassinate truce envoys, to falsely hoist a white flag in order to attack a closing enemy warship, to intentionally violate an armistice in order to kill the enemy, for prisoners of war to kill medical personnel while they are rendering medical aid, to kill personnel who have laid down their arms, have been taken prisoner, etc.

Perfidy has existed down through the centuries, but the imperialist States have been particularly flagrant violators of the universally recognized rules and customs of international law, and continue to be (Fascist Germany during World War II, the American imperialists during the aggressive wars in Korea in 1950-1953 and in Vietnam).

12. Legal Status of Hospital Ships, The Sick and Wounded

The Geneva Convention of 1949 on the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea regulates the regime of the wounded and the sick, as well as hospital ships, at the present time. This regime was previously established under the Geneva Conventions of 1906 and 1929 and the Tenth Hague Convention of 1907 for the adaption of the principles of the Geneva Convention to naval warfare.

Military hospital ships may not be attacked or captured during the course of hostilities under any circumstances. They must be respected and protected at all times, provided that their names and characteristics are notified to the belligerents in the conflict 10 days prior to their use.

Hospital ships utilized by the national Red Cross societies can be used under such auspices provided that they are placed under the control of one of the belligerents with the previous consent of their own Government, and with the authorization of the belligerent.

Such protection extends also to small ships employed by a State or by officially recognized relief societies for coastal search and rescue operations. Fixed coastal installations used exclusively by these craft for fulfilment of their humanitarian duties and coastal installations are protected under the 1949 Geneva Convention.

Hospital ships must afford relief and assistance to the wounded, sick, and shipwrecked without distinction of nationality. The belligerents must not use these ships for any military purpose.

Belligerents have the right to control and search hospital ships. They can decline their assistance, order them off, control their use of wireless and other means of communication, and detain them for a period not exceeding seven days from the time of search, if circumstances require it. Belligerents can temporarily appoint a commissioner to go aboard a ship to see that their orders are carried out. They can also place neutral observers aboard their hospital ships.

Hospital ships captured by the enemy in a port which falls into enemy hands shall be authorized to leave such port.

Hospital ships shall be painted white, with large red crosses on the sides and horizontal surfaces readily distinguishable from the sea and from the air. They fly their national flag and the Red Cross flag from the mainmast.

Hospital ships can be deprived of the protection established under the Convention if, in addition to their use for humanitarian purposes, they are used to commit acts directed against the enemy.

Belligerents can use medical aircraft to transport the wounded and sick, which must have the same distinguishing marks as hospital ships. They must fly at a height, at a time and on routes agreed to by the parties to the conflict, and are not subject to attack.

Medical and hospital personnel and religious staff aboard hospital ships, as well as the crews of hospital ships, enjoy respect and protection. They cannot be captured during the time they are serving aboard hospital

ships, regardless of whether or not there are wounded and sick aboard, but if they should fall into enemy hands they shall be entitled to respect and protection and must continue to perform their professional duties in caring for the sick and wounded.

The Convention provides that members of the armed forces and others at sea who are wounded, sick or shipwrecked shall be treated with respect and protected under all circumstances. The term "shipwreck" will be used regardless of the circumstances under which the shipwreck has occurred, including forced landings at sea by or from aircraft.

The belligerent exercising authority over these persons must provide them with humane treatment and care, without discrimination of any kind. They are strictly prohibited from encroaching on the lives of the wounded, sick and shipwrecked; they are also prohibited from killing or exterminating them, subjecting them to torture or performing biological experiments on them; they shall not deliberately leave them without medical assistance or care or deliberately create conditions so as to infect them.

The Convention is extended to members of the armed forces of a belligerent, as well as to members of the militia and of volunteer detachments serving in these armed forces; to members of organized resistance movements; to war correspondents; to civilian members of the crew of a military aircraft; to members of labor crews and services supporting the armed forces; to the members of crews of merchant ships; and to the inhabitants of unoccupied territory who, with the approach of the enemy, spontaneously take up arms to fight the invading forces.

Any warship of a belligerent can demand the handing over of wounded, sick and shipwrecked found aboard military hospital ships and aboard hospital ships belonging to relief societies or private individuals, merchant ships, yachts and small craft, regardless of the nationality of these ships, provided that the wounded and the sick are in a fit condition to be moved, and provided that the belligerent warship possesses adequate facilities for necessary medical treatment.

Wounded. sick and shipwrecked falling into the hands of an enemy are considered prisoners of war, and the rules of international law pertaining to prisoners of war shall apply to them.[17]

17. At the present time the status of prisoners of war is regulated under the Geneva Convention of 1949 on Treatment of Prisoners of War. It was ratified by the Presidium of the Supreme Soviet of the USSR on 17 April 1954.

Belligerents must, after each engagement, take immediate measures to search for and collect the wounded, sick and shipwrecked and to protect them against pillage. The necessary information is gathered on these persons, who are exchanged through the protecting power.

13. Truce Envoys

Truce envoys are persons authorized by a military command to conduct negotiations with the enemy command. Art. 32 of the Appendix to the Hague Convention of 1907 on the laws and customs of war on land states: "The truce envoy, as well as the trumpeter, bugler or drummer, the flagbearer, and the interpreter accompanying him, are entitled to inviolability."

The enemy can receive truce envoys or reject them, but they must be returned unharmed.

This principle was grossly violated by the high command of Fascist Germany during World War II. Thus, for example, on 29 December 1944 the Soviet command in the Budapest area sent truce envoys to negotiate with the German command. Despite the fact that the truce envoys travelled in vehicles flying white flags, the Hitlerites villainously murdered them.

Truce envoys can conduct negotiations only on questions they have been instructed to discuss. During a truce mission they are prohibited from engaging in the special collection of information on the enemy carrying notes or entering into negotiations with persons other than those with whom they are authorized to negotiate. However, there is nothing to prevent them from returning

to communicate to their own command whatever information they may have gathered in crossing through enemy positions, or as a result of negotiations with the other side.

Truce envoys must carry special authorization from their commands, directing them to negotiate. The external distinguishing mark of truce envoys is the white flag.

14. Scouts, Spies

In time of war each belligerent may collect information on the disposition and numerical strength of the opposing armed forces by sending scouts into the enemy troop dispositions.

Scouts are personnel belonging to the armed forces of one of the belligerents, wearing the military uniform, and penetrating enemy lines in order to gather information on enemy dispositions for their command. According to the Appendix to the 1907 Hague Convention on the laws and customs of war on land, scouts can resort to various ruses of war in carrying out their mission. They will not be considered spies in this case.

Military scouts caught in the performance of their duties are considered prisoners of war, and must be treated in accordance with the Geneva Convention on the Treatment of Prisoners of War, of 12 August 1949.

Spies (scouts) are persons who, acting clandestinely or under false pretenses in the employ of one of the belligerents, gather information needed for transmission to the other side (Art. 29 of the Hague Convention). Therefore, military personnel, dressed in civilian clothing and gathering information on a belligerent in his disposition, if captured are considered spies, handed over to a military tribunal, and can make no claim to the rights to which prisoners of war are entitled under the 1949 Geneva Convention.

Spies successfully returning to their own army and subsequently captured by the enemy are not subject to punishment for their previous activities and must be considered prisoners of war. However, spies from the civilian population can be held liable upon their subsequent capture.

15. Internees

Internment is the forced resettling in time of war of certain categories of persons possessing foreign citizenship in special camps or areas of a country.

Internment is applied to: (1) prisoners of war settled by the Detaining Power in camps set up specially for this purpose; (2) military units of a belligerent warship detained in a neutral port beyond the established period; and (3) enemy civilians living in the territory of a belligerent State or territory occupied by that State.

The regime of interned prisoners of war is governed under the 1949 Convention Relative to the Treatment of Prisoners of War.

The regime of military units and crews of warships of a belligerent State detained by a neutral is stipulated in the Fifth and Thirteenth Hague Convention. Broadly speaking, the essence of this regime is that the Detaining Power must provide for their maintenance, feed them and provide necessary medical assistance. The neutral State must be reimbursed upon conclusion of the war for expenses incurred in their maintenance.

The Geneva Convention Relative to the Protection of Civilian Persons in Time of War, signed on 12 August 1949,[18] establishes the procedure for the internment and maintenance of interned enemy civilians (noncombatants).

18. The Convention was ratified by the Presidium of the Supreme Soviet of the USSR on 17 April 1954.

According to this Convention, enemy civilians are interned by the belligerent State into whose hands they fall in order to exercise more effective control over them in the interest of state security. Internment is conducted by resolution of the appropriate administrative organ.[19] The Detaining Power can only resettle interned

19. In the USSR in World War II this organ was the Main Administration for Prisoners of War and Internees of the Ministry of Internal Affairs of the USSR.

enemy civilians within its own territory, and resettle civilians found in territory occupied by it within the boundaries of said territory.

But internment should be distinguished from imprisonment. Only persons convicted of crimes they have committed can be imprisoned.

The Detaining Power must provide for their maintenance free of charge and must render medical assistance to them. The food rations provided for internees must be sufficient in quantity, quality and variety so as to ensure a normal state of health. Internees must, to the extent possible, be assembled according to nationality, language, customs and sex. The areas designated for internees must meet appropriate sanitary conditions and must not be prejudicial to their health. Military considerations permitting, camps for internees should be marked with the letters "ic", placed so as to be clearly visible from the air during the day. The Powers concerned may agree upon any other system of marking.

Internees are quartered separately from prisoners of war and from persons who have been deprived of their liberty for various other reasons, and are administered separately.

Internees shall enjoy complete freedom of religion.

Internees may be used for voluntary and forced labor, provided such work is not directly related to the conduct of military operations and is not of an abusive or humiliating nature. They must be paid accordingly for such work.

Money, with the exception of small sums for minor expenditures, valuable papers, personal documents and objects, the use of which is prohibited, are all receipted for and returned to the owners upon release.

Discipline in internment camps must be compatible with humanitarian principles, and should in no event include rules which would subject internees to physical stress, danger to their health or to physical and moral humiliation.

Internees may elect a committee from their rank to serve for a period of six months, to represent them before the authorities of the Detaining Powers and the

respective international organizations concerned with their intellectual and physical state.

Internees shall be allowed to send and receive post cards and letters and to receive individual and collective parcels.

An internee who escapes shall be liable to disciplinary punishment only.

All interned personnel must be released by the Detaining Power as soon as the reasons for their internment cease to exist. Belligerents may, during the course of military operations, also agree upon the release, repatriation and return home or hospitalization in a neutral country of certain categories of internees. The Powers concerned may agree in such a case on which one will bear the costs incurred in the transfer of internees.

Repatriation of internees upon release is accomplished with the resources and means provided by the Detaining Power, which, in this case, shall bear the cost of return to where the internees lived at the time of internment. If the internees were captured while travelling, or on the high seas, this Power shall provide the necessary means to enable them to complete their journey or to return to the point of departure.

The establishment of an information bureau is provided for to perform various types of intermediary functions and investigation of internees.

CHAPTER III

NEUTRALITY, RIGHTS AND OBLIGATIONS OF NEUTRAL STATES

1. The Concept of Military Neutrality

In modern terms, "military neutrality" is understood as that condition of a State, not entering a war, under which it is obligated to refrain from rendering military assistance to either belligerent.

A State is neutral if it actually has not entered the war or has communicated its wish not to participate, in a special manifesto, governmental declaration or statement. However, such a statement is not obligatory if said State is not participating in any treaty of alliance established for the event of war.

In order to recognize a State as neutral, it must observe the rules of neutrality. Gross violations by a State of its neutral position may result in its being recognized as a de facto ally of one of the belligerents (if it is not so de jure) and, consequently, the waging of all-out warfare against it by the opposing belligerent. Demands issued by an interested belligerent to a neutral State to cease actual violations of neutrality by that State are subject to unconditional compliance. Failure to comply with these demands gives that belligerent a basis for ignoring the status of the neutral State.

During World War II, in addition to conventional neutrality, certain States adopted a new way of defining their relationship to the war and its participants, expressed in the formula of a "noncontending State." Franco's Spain, for example, declared herself "noncontending." The Turkish Government, which changed its position several times, variously declared itself neutral or noncontending. Actually, both of these States, not wanting to participate directly in the war, at the same time gave aid to Fascist Germany.

Thus the position of a "noncontending" State is not identical to that of a neutral State, and does not obligate the warring parties to respect such a position.

2. The Rights and Obligations of Neutral States

The basic principles defining the position of neutral States in wartime are contained in the provisions of the Fifth

Hague Convention of 1907 on the Rights and Duties of Powers and Persons in War on Land.

The territory of a neutral State is inviolable, i.e., it may not be employed as a theater for military operations or for passage of troops and supply convoys ("trains" in the Convention) of the warring parties. The belligerents are prohibited from constructing radio or other communications facilities on neutral territory or using communications facilities that might have been constructed before the war by such a party, for "exclusively military purposes." At the same time, they are not prohibited from employing communications equipment belonging to the neutral State itself or to private persons.

A neutral State has the right and the obligation to resolutely curtail any attempts by the belligerents to violate its neutrality. Any actions of a neutral State directed toward protection of its neutrality do not give the belligerents any basis for regarding these actions as hostile. The neutral State is obligated to intern the troops of the belligerents, should they penetrate neutral territory. Prisoners of war who escape to neutral territory or are sent there by the belligerents must have the status of free persons but may be interned by the authorities of the neutral State until the end of the war. Transit of their sick or wounded by the belligerents through neutral territory is permitted. When such persons are interned, the provisions of conventions concerning the protection of war casualties must be applied to them.[1]

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1. At the present time, the provisions of the 1929 and 1949 Geneva Conventions on Improving the Condition of Sick and Wounded Soldiers, and the 1949 Convention on Victims of Shipwrecks During War at Sea.

A neutral State is not obligated to prohibit its citizens (subjects) from willfully joining the armed forces of the belligerents, but should not allow the establishment on its territory of facilities for recruiting such persons or mobilization of troops for the belligerents. A citizen of a neutral State who is serving in the armed forces of one of the belligerents or who has committed hostile action against one of the belligerents is considered a belligerent. The granting of loans, the private shipments of goods, the rendering, by the neutral State to a belligerent, of services pertaining to civil administration or police matters is not considered a violation of neutrality. All measures of a restrictive or prohibitive nature should be applied equally to both sides by the neutral State.

The abovementioned rules of neutrality have been flagrantly violated by the imperialist States. In World War I, Germany used the territory of neutral Belgium and Luxembourg for an attack on France. In 1914, Japan landed her troops on the territory of then-neutral China in order to seize Kiaochow. England used the territory of neutral Egypt as a theater of war. During World War II, Nazi Germany again used the territories of neutral Belgium, Luxembourg and The Netherlands to attack France, and her troops encroached on the territory of the neutral Scandinavian countries (Denmark and Norway), occupied them throughout the war and turned them into a theater of military operations.

The neutral States themselves also violated their status of neutrality. For example, in 1939 Mannerheim's Fascist government declared Finland neutral but agreed to the passage of Nazi troops into Norway. The government of neutral Sweden allowed Fascist Germany to transport troops and military equipment by rail and allowed Swedish airfields to be used for waging the air war against the USSR. In 1940 the governments of Rumania and Bulgaria, which had declared their neutrality, allowed Fascist Germany to place her troops on their territory in order to attack the USSR.

3. Neutrality in War at Sea

The Fifth Hague Convention of 1907, which established the rights and obligations of neutral States and their citizens in the event of a land war, determines the general legal status of neutral countries with respect to the belligerents, and the relationship of the belligerents to the neutral States. For this reason, much of what has been stated above also pertains to war at sea. However, in contrast to war waged on land, where all the above questions are, as a rule, resolved by the government of the belligerent State or the military high command, in war at sea, due to the peculiarity of the theater and the nature of military operations, the relationship toward a neutral country and its property or that of its citizens is very often decided by the commander of a ship of any class or type, depending on the combat situation.

Basically, the ship's commander must determine the relationship toward the property of a neutral State or its citizens (in the form of ships, cargo, shore installations, etc.) and toward the procedures that await him in the waters of neutral States in time of war.

According to the 13th Hague Convention of 1907 concerning the rights and obligations of neutral powers in the event of war at sea, belligerents are prohibited from conducting military action, carrying out any sort of inspection or detaining ships belonging to any country in the coastal waters of a neutral State, or to use such water for the establishment of military bases. Within neutral waters, belligerents are prohibited from equipping or arming their own ships or taking prize ships on the territory of neutral countries or in their ports. In their own waters, neutral States may not transfer warships, ammunition or other military materials to a belligerent, but the belligerent is allowed free export and transit, by its own facilities, of everything of use to its army or navy.

4. Visits and Stay of Warships of Belligerents in the Ports and Waters of Neutral States

Belligerents may utilize neutral waters, ports and harbors within limitations established by the 13th Hague Convention of 1907. The passage through neutral waters of warships of belligerents and of prizes seized by them is free, except for cases in which the services of a pilot must be used. This is explained by the fact that neutral States have the right to mine their own coastal waters.

In the case of visits and stopovers, the period of stay of belligerent warships and their prizes in neutral waters, ports and harbors may not exceed 24 hours if the state of the sea or entering ships do not impede their exit to the open sea. Not more than three ships may remain in a single port or harbor at the same time. A prize taken by a belligerent may be brought into a neutral port in the event of foul sea conditions, lack of fuel or supplies, or the inability of a prize vessel or her captor to sail. A prize ship brought into a neutral port by a warship in the absence of the above conditions or unjustifiably detained beyond the authorized period must be released by the neutral authorities and the captured ship must be interned.

Warships of belligerents which have received fuel in a neutral port may replenish their supplies in a port of the same country no earlier than after three months. The neutral power is obligated to inform other States of the details of the regime established for its own ports.

The provisions of the 13th Hague Convention of 1907 were frequently violated by the belligerent imperialist States, and by neutral powers, especially in connection with

submarine operations. In World War I, noting that the 1907 convention did not contain special provisions for submarines, Germany attempted to use neutral ports as temporary bases to replenish food and fuel supplies, charge batteries, give shore leave, etc. A resolution adopted by a committee of representatives of the Entente Powers at a conference on 24 July 1915 demanded that the neutral powers not apply to submarines the provisions of the 13th Hague Convention concerning visits and stay of warships in neutral waters and that they immediately intern any submarine entering a neutral port. This demand was accepted by a number of countries (The Netherlands, Denmark, Spain, Norway, United States and Sweden).

The provisions of the 13th Hague Convention were also violated by the neutral countries themselves. For example, in World War I the United States was delivering arms and ammunition to Entente countries, allowed them to use the [U.S.] radiotelegraph against Germany, and permitted illegal actions against German cruisers. In World War II Japan, which on 4 April 1941 signed a treaty of neutrality with the USSR, impeded the movement of Soviet merchant ships in the Pacific. Neutral Turkey allowed Fascist ships to enter the Black Sea for the war against the USSR.

5. Merchant Ships of Belligerents in the Ports and Waters of Neutral States

Merchant ships of the belligerents have the right to freely enter and pass through any waters open to innocent merchant navigation, i.e., to travel both on the high seas and in the territorial waters of neutral States. They may carry any cargo belonging either to their own country or its citizens, or to neutral countries and their citizens. However, regardless of the type of cargo carried or its ownership, a merchant ship of a belligerent power may be seized and, under certain circumstances, sunk by warships of the enemy. Therefore, a merchant ship of a belligerent may be pursued by enemy warships, but only on the high seas or in its own national waters. In neutral waters, all merchant ships are inviolable and, consequently, may neither be inspected nor attacked as long as they are within neutral waters.

The length of stay of a merchant vessel of a belligerent State in neutral waters is not restricted. Nor are there limitations on the supplying of merchant ships with everything necessary for navigation (fuel, lubricants, fresh water, etc.).

A merchant ship enjoys all of its inherent rights, if it: a) is not a ship which has already been formally converted into a warship in accordance with the provisions of the 7th Hague Convention of 1907, and b) is not an auxiliary vessel of the navy of a belligerent country, hiding under the merchant flag. Neutral authorities, having established that a ship belongs to the navy of a belligerent, or who possess authentic information on this, have the right and, where appropriate, the obligation, to deprive such a ship of the perquisites of merchant ships entering their waters.

The status of a merchant ship which is armed, but not formally converted into a warship (under the 7th Hague Convention of 1907), and which is not being used by a belligerent navy as an auxiliary ship, is still disputed and legally unresolved. With respect to such ships, a neutral power is not bound to specific rules of law.[2]

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2. During World War I, Germany demanded that neutral countries treat these ships as warships.

Also the status of merchant ships of belligerents which have entered neutral waters in a convoy of warships is unregulated.

6. Neutralized and Demilitarized Territories

One of the important means and methods of preventing and limiting the possibilities of unleashing wars of aggression is the demilitarization and neutralization of certain national or international territories.

The demilitarization of territories has existed in international relations since the Middle Ages. In recent times the neutralization of territories has also come into being, so that states located near these territories cannot use them as advantageous staging areas for attacking each other or as military bases during time of war. Both of these institutions are also used in contemporary international law, and demilitarization and neutralization are sometimes applied simultaneously to the same territory.

Demilitarization of a territory.[3] Demilitarization of a territory is understood as complete or partial prevention of the storage or erection of military facilities in that territory or the retention of troops in greater numbers than provided for under international law to guarantee overall

international security or security in a specific geographic region. Accordingly, demilitarization may be complete or partial.

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3. The problem of demilitarization of entire States (i.e., the demilitarization of Germany after World War II) is not considered here.

In the case of complete demilitarization of a territory, no military fortifications are allowed on it, nor are depots for ammunition or military equipment, and the maintenance of military units or individual garrisons is also prohibited. All previous facilities (if such there were) must be razed, demolished or dismantled, the troops removed, etc.

In the case of partial demilitarization, the retention of specific facilities or troop contingents necessary for the security of the interested State is permitted under the appropriate international instrument.

There are a number of demilitarized territories at the present time. These include certain islands, gulfs, international canals and border zones.

Thus under the 1947 peace treaty with Italy, the Pelagic Islands (Lampedusa, Lampione, Linosa), the Island of Pantelleria in the Mediterranean, the Island of Pianosa in the Adriatic, a number of the Dodecanese Islands, transferred by Italy to Greece (Rhodes, Kos, Karpathos, Telos, etc.), and the Island of Pelagruz, transferred to Yugoslavia by Italy, were demilitarized completely. At the same time, there was partial demilitarization of the territory east of Meridian 17° 45' East Longitude on the Apulian Peninsula and the Islands of Sardinia and Sicily. Arts. 47 and 48 of this Treaty declared 20-km zones of the Franco-Italian and Italo-Yugoslavian border territories partially demilitarized zones.

The Åland Islands are likewise demilitarized, under the convention of 20 October 1921, the agreement between the USSR and Finland of 1940, and the peace treaty with Finland in 1947.

Demilitarized zones and individual territories aid in preserving peace between States, since they make it difficult to quickly adapt and use them for military purposes.

Neutralization of Territories.[4] The neutralization of territories is a declaration under an international act prohibiting the utilization of such territory as a theater of war or as a base or staging area for conducting military operations.

4. The question of neutralization of States is also not considered here.

Consequently, this is a territory to which use of the weapons of the belligerents cannot be extended. Entry into this territory, or passage through it, by foreign troops, either in time of peace or in wartime, is not allowed. Its use as a base for ground, naval or any other military formations is also forbidden.

Although a territory has been declared neutralized, this is not always accompanied by demilitarization. However, neutralization requires that the territory which has been declared neutralized not be used for the concentration of troops, establishment of depots or provision of engineering equipment beyond that provided for by the appropriate international act.

At the present time these neutralized territories include the Panama Canal and the Strait of Magellan. The 10-mile zone of the Panama Canal (5 miles on each side) was declared neutralized under Art. 18 of the Treaty of 18 November 1903, concluded by the United States and Panama. This zone is not demilitarized, since the treaty does not contain any special provisions for this. This situation was cleverly manipulated by the United States, which seized the Panama Canal, brought its own troops into its 10-mile zone and constructed military fortifications. However, the absence of provisions in the Treaty for demilitarization of the Panama Canal Zone cannot be considered as a basis for its militarization.

The Strait of Magellan was declared permanently neutralized in the treaty between Chile and Argentina of 28 June 18[illegible]. Prior to 1941, the shores of the Strait were also partially demilitarized. In 1941 Argentina and Chile signed a new agreement providing for fortification of the shores of the Strait, and therefore they can no longer be considered demilitarized, although the status of the Strait as a neutralized territory has remained unchanged.

At the present time certain neutralized territories are simultaneously completely or partially demilitarized. Such territories include the Suez Canal Zone under the Convention of 1888, and the Spitzbergen Archipelago under the Paris Treaty of 9 February 1920, to which the Soviet Union acceeded in 1935.

The demilitarization and neutralization of certain territories is a measure which prevents their utilization for the preparation and implementation of war, since violation of the status of such a territory by fortifying it or bringing troops within its confines is an indication of preparations for aggression, thus making it possible to take necessary measures to prevent it.

In recent years, in social and official circles of many countries, a movement to declare significant areas of the world nuclear-free zones has become popular. Thus, in 1957 the Polish Government, through its Minister of Foreign Affairs A. Rapacki, proposed that Central Europe (Poland, Czechoslovakia and the two Germanies) be declared a zone in which the production, introduction and accumulation of nuclear weapons would be prohibited. Rapacki's plan thus provided for the creation of a wide, partially demilitarized zone encompassing a number of States. This plan was not realized, since the Government of the Federal Republic of Germany, with the support of the United States, refused to participate.

During the same year, the Government of Rumania proposed to Bulgaria, Greece, Turkey and Yugoslavia that a peace zone be created in the Balkans. This initiative was reinforced in 1959 by a Soviet proposal to create, in the Balkans and in the Adriatic, a zone free from atomic and missile weapons.[5] In 1957 the German Democratic Republic and Poland proposed that the Baltic Sea be declared a sea of peace, in order to make Northern Europe a nonatomic zone. Similar proposals were made by the USSR and other peaceloving countries with respect to the creation of such zones in the Far East, Africa and Latin America.

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5. See note of the USSR of 25 June 1959. "Izvestiya," 26 June 1959.

In a UN General Assembly resolution of 24 November 1961, Africa was declared a nuclear-free zone. This resolution was confirmed by a resolution of the conference of Heads of State of African countries in May 1963. The very same year, under a United Nations resolution, Latin America was also declared a nonnuclear zone.

The creation of such zones constitutes measures which help to ease international tension and to prevent aggression, since they prevent an unrestrained arms race and the utilization of arms in the interests of the aggressors.

CHAPTER IV

CESSATION OF WAR

1. Cessation of Military Activity

Ordinarily a state of war is ended only when the belligerents discontinue military activities and legally formalize cessation of the war through a peace treaty. It is also possible to bring a state of war to a halt through unilateral acts, as was the case after the Second World War with respect to the German Democratic Republic and the Federal Republic of Germany on the part of several nations, particularly the USSR.

However, in history there have been instances of a so-called actual discontinuation of a state of war without legalization. In 1601 wars were concluded between Russia and England and Russia and Persia as a result of an actual discontinuation of military activity. The war between France and Mexico in 1666 ended as a result of withdrawal by France of its armed forces from Mexico.

A number of wars have ended through complete destruction of one of the belligerents as a State. Thus, in 1902, the Anglo-Boer War ended, with the result that England conquered the Boer Republics in South Africa.

Even occupation of the entire territory of one of the belligerents does not always lead to cessation of hostilities. This requires a complete collapse of the occupied State. During the First World War Serbia, whose territory was occupied by Austro-German forces, continued to exist and to resist. During the Second World War Poland, Norway and other States continued to exist, despite occupation of their entire territory by the Hitlerite invaders.

A special situation arises in cases involving armed intervention - intervention by one or several States in the affairs of another State. In modern international law, intervention is regarded as a criminal act and violates all the laws and customs of war. With the cessation of military activities as a result of armed intervention, all of the sovereign rights and the independence of the State intervened against should be restored, and the interventionists punished as war criminals.

The cessation of a state of war should be distinguished from cessation of military activities. Cessation of a state of war has a finality about it, whereas cessation of military activities is of a temporal nature.

2. Capitulation. Armistice

Capitulation. One of the ways to end military activities is through capitulation - cessation of hostilities and surrender of individual garrisons surrounding deployed forces or all of the armed forces of a State. A distinction is made between partial and general capitulation.

Partial capitulation under conditions of surrender can be simple or with honor. Simple capitulation involves surrender to the will of the victor with disarmament and capture of those surrendering. Capitulation with honor simply means that those surrendering are afforded the opportunity to abandon their positions, retaining their colors, weapons, etc. (this does not occur in modern warfare).

General capitulation occurs when the defeated side is recognized as a State. In this case, certain political, economic and military obligations may be placed on the capitulating State. Capitulation is one type of military agreement which does not predetermine all issues involved in a future peace treaty.

Unconditional surrender is one type of general capitulation.

Unconditional surrender involves complete defeat and actual surrender of all the armed forces of a State without any conditions laid down by the capitulating State. Of particular significance was the unconditional surrender of Hitlerite Germany and militarist Japan.

The unconditional surrender of Hitlerite Germany was accompanied by liquidation of the Fascist regime. In Germany the victors assumed supreme power in order to prevent any possible repetition of the aggression, to democratize the political regime in the country and to create the necessary prerequisites for conclusion of a peace treaty and the withdrawal of occupation forces.

The unconditional surrender of Hitlerite Germany was formalized in three international legal documents: the Capitulation Act of 8 May 1945; the Declaration of the USSR, United States, Great Britain and France of 5 June 1945, under which they assumed temporary authority in Germany and the Potsdam Protocol of 1945.

The unconditional surrender of Japan was formalized by the Act of Capitulation of 2 September 1945, the Moscow Conference of 16-26 December 1945, and the Potsdam Declaration of 26 June 1945.

The capitulation of governments to aggressors is of a somewhat different nature - it is illegal and does not obligate the people to observe its conditions. Thus for example, capitulation of the Pétain Government of France on 22 June 1940, of the Belgian Government on 25 May 1940, and other bourgeois Governments to Fascist Germany were illegal.

The capitulation and surrender of a besieged city, an individual military unit, a military base or a warship does not create any obligations for a State. As a rule, this form of capitulation terminates independent military operations and does not entail any obligations of a political nature.

Armistice. An armistice is a cessation of military activities and is ordinarily followed by the conclusion of a peace and cessation of a state of war. An armistice is formalized by an agreement between the belligerents. An armistice is general if it involves the conduct of peace negotiations and if it extends to all of the armed forces, and local (or partial) if it is established on individual sectors of the front or between individual units of the armed forces of the opposing armies. The duration of the armistice is stipulated in the armistice agreement. Quite frequently an armistice is established for a period ending with the conclusion of a peace treaty. Combat operations are no longer permitted after an armistice goes into effect. War booty or prisoners taken after the armistice goes into effect by military units or warships unaware of the armistice must be returned.

Armistice agreements with the former allies of Hitlerite Germany during the Second World War confirmed the defeat of these States. The armistice agreements with Italy, Finland, Bulgaria, Hungary and Rumania contained a number of military, political and economic provisions later included in the peace treaties with these States in 1947.

Capitulation and armistice are regulated in an Appendix to the Fourth Hague Convention (1907) on the laws and customs of land warfare.

3. Peace Treaties

A peace treaty is an international agreement stipulating peaceful regulation of relations between warring States after the war has ended. Usually a state of war is ended immediately upon the signing of a peace treaty.

Peace treaties usually contain provisions regarding cessation of military activities and a state of war, restoration of peaceful relations, resolution of territorial questions, compensation for losses incurred as a result of the war, return of prisoners of war, revitalization of treaties violated as a result of the war, etc.

In certain instances, a so-called preliminary peace treaty is concluded before a final peace treaty is signed. This preliminary treaty establishes the basic provisions of the subsequent final peace. For example, after the Russo-Turkish War of 1877-1878, the preliminary Treaty of San Stefano was signed on 3 March 1878, paving the way for the Treaty of Contantinople, concluded on 8 February 1879.

A preliminary treaty suspends military activities, but final cessation of a state of war between States occurs only after a peace treaty goes into effect.

If several States participated in the war, the peace treaty may be a general treaty concluded conjointly by all allies participating in the war, or it can be a separate treaty concluded by individual participants of the opposing coalitions.

On 1 January 1942 the 26 participants in the anti-Hitler coalition signed the Washington Declaration, asserting that they "would not conclude a separate armistice or peace with the enemy." However, several of the nations signing the Declaration ignored this obligation and engaged in separate illegal activities. For example, the peace treaty signed with Japan on 8 September 1951 in San Francisco was concluded without participation of the Soviet Union.

The Soviet Union succeeded in preventing the conclusion of one-sided peace treaties with the former allies of Fascist Germany. The peace treaties concluded in 1947 with Italy, Rumania, Bulgaria, Hungary and Finland were based on the principles of democracy and justice and reflected the liberating nature of the Second World War and the decisive role of the USSR in this war.

4. Responsibility of War Criminals

Those who commit crimes against peace and humanity and against the laws and customs of war (including the laws and customs of naval warfare) are regarded as war criminals.

The responsibility of those guilty of unleashing war and violating the laws and customs of war arose as an issue after the First World War. However, prosecution of Wilhelm II as the primary war criminal, envisaged under the Treaty of Versailles, never took place. The trial of other German war criminals, held in a German court, ended in acquittal of the most important of them and light sentences (from 6 months to 2 years) for a small group of war criminals.

During the Second World War, the Hitlerites and Japanese militarists committed monstrous crimes against peace and against the laws and customs of war, as well as crimes against humanity. The entire world demanded severe punishment of the war criminals.

At the insistence of the Soviet Union, the punishment of war criminals found expression in a number of international legal acts. On 2 November 1943 the USSR, Great Britain and the United States published a declaration holding the Hitlerites responsible for the commission of atrocities. This Declaration established the criminal responsibility of the war criminals in accordance with the laws of the countries in which these crimes were committed. Moreover, provision was made for punishment of the principal criminals, whose crimes were committed in several countries and who were subject to punishment by joint agreement among the allies. At the Crimea Conference in 1945 it was decided that all war criminals would be justly and swiftly punished. An agreement was concluded in London on 8 August 1945 between the USSR, Great Britain, the United States and

France on prosecution and punishment of the principal war criminals of the European Axis Powers. The Charter of the International War Crimes Tribunal was established as a result of this agreement.

In January 1946 the Charter of the International War Crimes Tribunal was drawn up on the basis of an agreement between the USSR, the United States, Great Britain, France, China, India and other nations, to try the principal Japanese war criminals.

Even during the Second World War the Soviet Union took measures for the just punishment of war criminals by organizing trials of German war criminals in Smolensk, Khar'kov, Krasnodar and other cities.

The trial of the principal war criminals, held in Nuernberg after the war, ended on 1 October 1946. Twelve of the main criminals were sentenced to death by hanging and seven to prison terms of varying length.

Sentence was handed down on 12 November 1948 in Tokyo, ending a lengthy trial in which seven of the principal war criminals were sentenced to death and 18 to prison terms of varying length.

Considering the fact that the war criminals of Fascist Germany committed hideous crimes against humanity during World War II, the victors agreed among themselves that not a single war criminal should escape punishment. Thus no statute of limitations was established for war criminals. Nevertheless, the Government of the Federal Republic of Germany mounted a broad campaign to halt the pursuit of Nazi criminals in view of the time lapse since commission of their crimes. The actions of the Government of the Federal Republic of Germany aroused the justified indignation of the entire world, with the result that a law was passed extending the prosecution of war criminals until 31 December 1969. However, even this law was adopted in violation of the rules of international law, according to which no statute of limitations can be established for crimes of this gravity.

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